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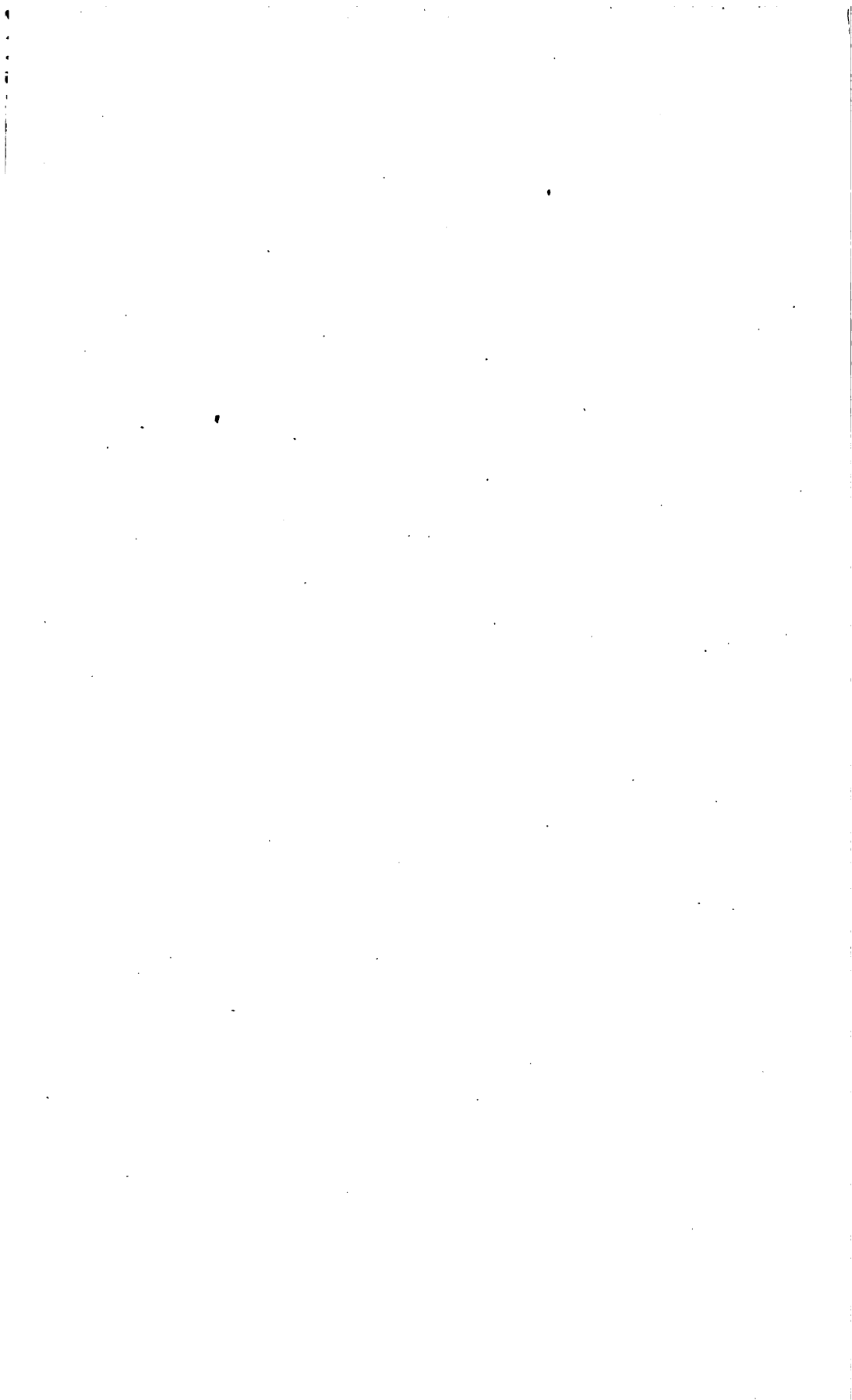


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## NAVAL PRIZE COURTS.

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**Order in Council, 18th July 1898,  
approving the Rules of Court  
in prize proceedings in Vice-  
Admiralty Courts and Colonial  
Courts authorised to act as  
Prize Courts, also of Tables of  
Fees.**

**Naval Agency and Distribution Act,  
1864.**

**Naval Prize Act, 1864.**

**Prize Courts Act, 1894.**

**Rules of Court and Tables of Fees.**

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## CONTENTS.

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	Page
Order in Council, 18th July 1898, approving the Rules of Court in prize proceedings in Vice-Admiralty Courts and Colonial Courts authorised to act as Prize Courts, also of Tables of Fees - - -	3
Naval Agency and Distribution Act, 1864 - - -	5
Naval Prize Act, 1864 - - - - -	11
Prize Courts Act, 1894 - - - - -	25
Rules of Court and Tables of Fees - - -	27

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AT THE COURT AT WINDSOR

The 18th day of July 1898.

PRESENT :

THE QUEEN'S MOST EXCELLENT MAJESTY IN  
COUNCIL.

WHEREAS there was this day read at the Board a memorial from the Right Honourable the Lords Commissioners of the Admiralty, dated the 5th day of May 1898, in the words following, viz. :—

“Whereas by an Act passed in the Session of Parliament held in the 57th and 58th years of Your Majesty's reign, intituled ‘An Act to make further provision for the establishment of Prize Courts, and for other purposes connected therewith,’ it was *inter alia* enacted in section 2, that ‘any commission, warrant or instructions from Her Majesty the Queen or the Admiralty, for the purpose of commissioning or regulating the procedure of a Prize Court at any place in a British possession may, notwithstanding the existence of peace, be issued at any time,’ and shall upon a proclamation, to be made as therein directed, subject to instructions from Your Majesty, by the Vice-Admiral of such possession, that war has broken out between Your Majesty and any foreign State, take effect as if the same had been issued after the breaking out of such war and such foreign State were named therein, and that ‘the said commission and warrant may authorise either a Vice-Admiralty Court, or a Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, to act as a Prize Court, and may establish a Vice-Admiralty Court for that purpose.’

“And it was further enacted, in section 3 (1) of the same Act, that ‘Her Majesty the Queen in Council may make rules of court for regulating, subject to the provisions of the Naval Prize Act, 1864, and this Act, the procedure and practice of Prize Courts within the meaning of that Act, and the duties and conduct of the officers thereof, and of the practitioners therein, and for regulating the fees to be taken by the officers of the courts, and the costs, charges, and expenses to be allowed to the practitioners therein.’

“And whereas it appears to us to be expedient that rules of court should be made, as in the last-recited section mentioned, to be observed in Vice-Admiralty Courts and Colonial Courts of Admiralty when acting as Prize Courts, and that such rules



when made shall be issued as, and shall be so far as they relate to procedure, instructions for regulating the procedure of the said Courts under section 2 aforesaid.

"And whereas the provisions of section 1 of the Rules Publication Act, 1893, have been complied with.

"Now, therefore, it is most humbly submitted that Your Majesty will be graciously pleased by your Order in Council to direct that the Rules and Tables of Fees annexed hereto shall, on and from the 1st day of July 1898, be the Rules and Tables of Fees to be observed and taken in respect of prize proceedings in all such Vice-Admiralty Courts and Colonial Courts of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, as shall be duly authorised to act as Prize Courts, and shall thereupon be issued as, and shall be so far as they relate to procedure, instructions for regulating the procedure of such Courts as Prize Courts."

Now, therefore, Her Majesty, having taken the said memorial into consideration, was pleased, by and with the advice of Her Privy Council, to approve of what is therein proposed, and to order, as it is hereby ordered, that the Rules and Tables of Fees annexed hereto shall on and from the 1st day of July 1898, be the Rules and Tables of Fees to be observed and taken in respect of Prize Proceedings in all such Vice-Admiralty Courts and Colonial Courts of Admiralty, within the meaning of the Colonial Courts of Admiralty Act, 1890, as shall be duly authorised to act as Prize Courts, and shall be, so far as they relate to procedure, instructions for regulating the procedure of such Courts as Prize Courts. And the Right Hon. the Lords Commissioners of the Admiralty are to give the necessary directions herein accordingly.

J. H. HARRISON.

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# NAVAL AGENCY AND DISTRIBUTION ACT, 1864.

[27 & 28 VICT. c. 24.]

AN Act to provide for the Appointment, Duties, and Remuneration of Agents for Ships of War, and for the Distribution of Salvage, Bounty, Prize, and other Money among the Officers and Crews thereof.

[23rd June 1864.]

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

## *Preliminary.*

1. This Act may be cited as the Naval Agency and Distribution Act, 1864. Short title.

2. In this Act—

The term "the Lords of the Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral :

*Interpretation of terms.*

The term "the High Court of Admiralty" means the High Court of Admiralty of England :

The term "ship of war" includes vessel of war :

The term "officers and crew" includes all flag officers, commanders, and other officers, engineers, seamen, marines, soldiers, and others on board any of Her Majesty's ships of war.

3. Any ship or vessel belonging to Her Majesty, and in actual service, (other than a ship of war,) may be declared by the Lords of the Admiralty to be a ship of war for the purposes of this Act ; and all the provisions of this Act shall thereupon apply to such ship or vessel, and shall continue to so apply as long as she then continues in actual service, but no longer. Power for Admiralty to apply Act to any of Her Majesty's ships.

## *Appointment of Ship's Agent.*

4. Each of Her Majesty's ships of war shall at all times while in commission have, for the purposes of this Act, an agent styled the ship's agent, to be appointed in the first instance as soon as may be after the ship is put in commission, and afterwards from time to time as a vacancy in the office or other occasion may require. Each of Her Majesty's ships to have an agent.

Ship's agent  
to be ap-  
pointed by  
commanding  
officer.

5. The ship's agent shall be appointed from time to time at pleasure by the commanding officer of the ship for the time being by an instrument signed and attested in the form given in the schedule to this Act.

Instrument  
of appoint-  
ment to be  
registered and  
filed.

6. Any such instrument shall not have effect unless and until it is filed in the registry of the High Court of Admiralty, having been previously registered in the office of the Accountant-General of the Navy.

An official copy of any such instrument under the seal of the High Court of Admiralty shall be conclusive evidence thereof.

Persons in  
service of  
Crown,  
proctors, &c.,  
incapable of  
being agents.

7. A person holding any office or employment in Her Majesty's service or under the Crown, or a proctor, attorney, or solicitor, shall not be capable of being a ship's agent.

If any person being a ship's agent accepts any such office or employment, or becomes a proctor, attorney, or solicitor, his appointment as ship's agent shall be thereby vacated.

Partnership  
body may  
be a ship's  
agent.

8. A partnership body, not incorporated, may be appointed a ship's agent; and in that case the partners for the time being, or any one or more of them; may act as the agent; and any change of partners shall not affect the appointment.

The names of the partners shall at the time of appointment, and from time to time on any change happening, be registered in the office of the Accountant-General of the Navy, and in the registry of the High Court of Admiralty.

Change of  
commanding  
officer.

9. The appointment of the ship's agent shall not be affected by a change of the commanding officer of the ship.

Office of  
ship's agent.

10. The ship's agent shall at all times have an office or place of business within five miles of the General Post Office, London.

Ship's agent  
to be amenable  
to High Court  
of Admiralty.

11. The ship's agent shall be subject to the jurisdiction and authority of the High Court of Admiralty as if he were an officer of the court, and in case of any neglect or misconduct on his part shall be liable to be proceeded against and punished accordingly.

#### *Duties of Ship's Agent.*

Ship's agent  
to act for ship  
with respect  
to salvage,  
bounty, prize,  
&c.

12. It shall be the duty of the ship's agent, by himself or by a proper sub-agent appointed and remunerated by him, to take or cause or procure to be taken all steps and proceedings, and do or cause or procure to be done all things, that may be necessary or proper to be taken or done for any purpose on behalf or in the name of the ship or of the officers and crew thereof, or any of them, in the several cases following :

In case of salvage services rendered to any ship or cargo, or otherwise, within the meaning of the enactments for the time being in force relating to merchant shipping :

In case of any breach of any law respecting national character or otherwise relating to merchant shipping :

In case of any seizure for breach of any law relating to the customs :

In case of any seizure or capture under any Act relating to the abolition of the slave trade :

In case of any matter arising out of an attack on or engagement with persons alleged to be pirates, afloat or on shore :

In case of any capture, re-capture, or destruction of any ship, goods, or thing in time of war or hostilities :

In case of any special service or other matter in respect whereof any grant, reward, or remuneration is payable.

*Distribution of Salvage, Bounty, Prize, and other Money.*

13. Where in any of the several cases aforesaid any money is distributable among the officers and crew of any of Her Majesty's ships of war, the costs, charges, and expenses of the officers and crew and of the ship's agent, and all other (if any) costs, charges, or expenses properly chargeable against that money, shall be paid thereout before distribution thereof, all such costs, charges, and expenses being first taxed and allowed by the proper officer of the court having jurisdiction in the case, and if there is no such court then by the Registrar of the High Court of Admiralty. Taxation and payment of costs of officers and crew, agents, &c.

14. In the several cases aforesaid, money distributable among the officers and crew of any of Her Majesty's ships of war, so far as full provision respecting the distribution thereof is not made by or under any Act of Parliament other than this Act, shall be distributed under the direction of the Lords of the Admiralty in the shares in that behalf specified in any Royal Proclamation or Order in Council. Salvage, bounty, prize, and other money to be distributed according to Order in Council, &c.

15. The several shares of any such money as aforesaid shall be paid to the persons entitled thereto in such manner, and subject and according to such restrictions, conditions, and provisions, as may from time to time be directed by Order in Council. Payment of shares.

Any assignment, sale, or contract of or relating to any such money as aforesaid, payable in respect of the services of any petty officer or seaman, non-commissioned officer of marines or marine, other than such as may be made or entered into under the authority of and in conformity with any such Order in Council, shall be void.

16. All bills, orders, receipts, and other instruments drawn, given, or made under the authority or in pursuance of any such Order in Council by, to, or upon any officer or person in the service of Her Majesty or of the Lords of the Admiralty, shall be exempt from stamp duty. Exemption from stamp duty.

Forfeited shares and deduction of 5 per cent. to be carried to naval prize cash balance.

17. All forfeited and unclaimed shares and balances of prize money, and a per-centage of five pounds in every one hundred pounds out of the proceeds of all prizes, and out of all grants to the Royal Navy and Marines, and out of all bounty money, and also out of all other money distributable in the several cases aforesaid among the officers and crew of any of Her Majesty's ships of war out of which such per-centage is at the commencement of this Act by law deducted, shall, under the direction of the Lords of the Admiralty, continue to be carried to and to form part of the naval prize cash balance.

So much of the naval prize cash balance as the Lords of the Admiralty think expedient shall from time to time by Her Majesty's Paymaster-General, under the authority and direction of the Lords of the Admiralty, be paid and transferred to the consolidated fund of the United Kingdom.

In case at any time a claim in respect of prize or bounty money is made which the naval prize cash balance is not sufficient to meet, there shall be paid out of the said consolidated fund a sufficient sum to meet such claim.

Agent may be furnished with copies of accounts.

18. A ship's agent shall be entitled, on request, and on payment of reasonable expenses, to be furnished with copies of or extracts from any official accounts kept under or for the purposes of this Act in relation to any of Her Majesty's ships of war for which he is agent.

#### *Remuneration of Ship's Agent.*

Agent to receive per-centage of 2½ per cent.

19. Before any such money as aforesaid is distributed among the officers and crew of any of Her Majesty's ships of war there shall be paid, under the direction of the Lords of the Admiralty, to the ship's agent a per-centage of two and a half per centum on the net amount actually distributable, as the sole and full remuneration of the ship's agent for his services in the case.

Apportionment of per-centage where more than one ship or on change of agent.

20. In the following cases,—

Where more than one of Her Majesty's ships of war are entitled to participate in any such money,—

Where the ship's agent is changed pending proceedings,—

the ship's agent's per-centage shall, in case of difference, be apportioned between or among the respective agents of the several ships, or the several persons having been and being the ship's agent (as the case may be), in such manner as the Registrar of the High Court of Admiralty thinks just, having regard to the duration and character of the services of the several agents in the case, subject to objection to the registrar's award to be taken before the judge of the court.

#### *Investment of Salvage, Bounty, Prize, and other Money.*

Power to Admiralty to direct investment pending distribution.

21. Any money for the time being awaiting distribution, but for any reason not immediately distributable as aforesaid, may, under the direction of the Lords of the Admiralty, be invested

in or on any proper stocks, funds, or securities; and the proceeds of those stocks, funds, or securities, and any dividends or interest accrued due thereon, shall be distributed as the money invested would have been distributed if an investment had not been made :

Provided that no such investment shall be made of any money pending any adverse claim thereto, except with the consent of the claimant.

*Decision as to Distribution or Investment.*

22. Where any question (whether in respect of asserted joint capture, or in respect of flag shares, or in respect of any other matter) arises concerning the distribution of any money distributable as aforesaid, or concerning any investment thereof, actual or intended, the High Court of Admiralty shall have exclusive jurisdiction to hear and determine the same ; and any person claiming an interest in such money, or the Lords of the Admiralty, may apply to the High Court of Admiralty for a judgment on that question ; and the court, after hearing the parties interested, shall decide thereon, and such decision shall be final, and shall be binding on all persons concerned.

Power to High Court of Admiralty to decide questions relative to distribution, &c.

*Miscellaneous.*

23. Nothing in this Act shall—

- (1) authorise a ship's agent or his sub-agent to practise or act as a proctor, attorney, solicitor, or other legal practitioner in any court ; or
- (2) affect the right or power of the officers and crew of any of Her Majesty's ships of war as salvors, seizors, captors, re-captors, or otherwise, or of any of such officers and crew, to take or cause or procure to be taken any step or proceeding, or do or cause or procure to be done anything, that may be necessary or proper to be taken or done for any purpose in any court or elsewhere, in case of the absence or default of the ship's agent ; or
- (3) affect any right or power of control, or other authority, that Her Majesty has or may exercise in any prize cause or other proceeding.

Saving rights of the Crown, captors, &c.

24. Nothing in this Act shall invalidate an appointment of an agent made before the commencement of this Act under the Navy Prize Agents Act, 1863 ; but every agent so appointed shall, from the commencement of this Act, be subject to this Act as if he were appointed under it.

Not to affect appointments of agents under 26 & 27 Vict. c. 116.

25. Her Majesty in Council may from time to time make such Orders as seem meet for the better execution of this Act.

Power to make Orders in Council.

Orders in  
Council to be  
gazetted, &c.

26. Every Order in Council under this Act shall be published in the "London Gazette," and shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament is then sitting, and, if not, then within thirty days after the next meeting of Parliament.

Commence-  
ment of Act.

27. This Act shall commence on such day not later than the first day of January, one thousand eight hundred and sixty-five, as Her Majesty in Council thinks fit to direct.

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## SCHEDULE.

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### *Form of Appointment of Ship's Agent.*

I, (1) Commanding Officer of Her Majesty's  
(2) hereby appoint (3)  
of (4) to be the ship's agent for  
the purposes of the Naval Agency and Distribution Act, 1864.  
Dated the                      day of

(Signed) *A.B.*

Witness,  
(Signed) *C.D.*

- 
- (1) Name of officer.
  - (2) Description and name of ship.
  - (3) Name of agent.
  - (4) Address of agent.
-

# NAVAL PRIZE ACT, 1864.

[27 & 28 VICT. c. 25.]

An Act for regulating Naval Prize of War.

[23rd June 1864.]

**W**HEREAS it is expedient to enact permanently, with amendments, such provisions concerning naval prize, and matters connected therewith, as have heretofore been usually passed at the beginning of a war :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

## *Preliminary.*

1. This Act may be cited as the Naval Prize Act, 1864. Short title.
2. In this Act— Interpretation of terms.

The term "the Lords of the Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the Office of Lord High Admiral :

The term "the High Court of Admiralty" means the High Court of Admiralty of England :

The term "any of Her Majesty's ships of war" includes any of Her Majesty's vessels of war, and any hired armed ship or vessel in Her Majesty's service :

The term "officers and crew" includes flag officers, commanders, and other officers, engineers, seamen, marines, soldiers, and others on board any of Her Majesty's ships of war :

The term "ship" includes vessel and boat, with the tackle, furniture, and apparel of the ship, vessel, or boat :

The term "ship papers" includes all books, passes, sea briefs, charter parties, bills of lading, cockets, letters, and other documents and writings delivered up or found on board a captured ship :

The term "goods" includes all such things as are by the course of Admiralty and law of nations the subject of adjudication as prize (other than ships).

## I.—PRIZE COURTS.

3. The High Court of Admiralty, and every Court of Admiralty or of Vice-Admiralty, or other court exercising Admiralty jurisdiction in Her Majesty's dominions, for the time being authorised to take cognizance of and judicially proceed in matters of prize, shall be a prize court within the meaning of this Act. High Court of Admiralty and other courts to be prize courts for purposes of Act.



Every such court, other than the High Court of Admiralty, is comprised in the term "Vice-Admiralty Prize Court," when hereafter used in this Act.

*High Court of Admiralty.*

Jurisdiction of  
High Court of  
Admiralty.

4. The High Court of Admiralty shall have jurisdiction throughout Her Majesty's dominions as a prize court.

The High Court of Admiralty as a prize court shall have power to enforce any order or decree of a Vice-Admiralty Prize Court, and any order or decree of the Judicial Committee of the Privy Council in a prize appeal.

*Appeal ; Judicial Committee.*

Appeal to  
Queen in  
Council, in  
what cases.

5. An appeal shall lie to Her Majesty in Council from any order or decree of a prize court, as of right in case of a final decree, and in other cases with the leave of the court making the order or decree.

Every appeal shall be made in such manner and form and subject to such regulations (including regulations as to fees, costs, charges, and expenses) as may for the time being be directed by Order in Council, and in the absence of any such order, or so far as any such order does not extend, then in such manner and form and subject to such regulations as are for the time being prescribed or in force respecting maritime causes of appeal.

Jurisdiction of  
Judicial Com-  
mittee in prize  
appeals.

6. The Judicial Committee of the Privy Council shall have jurisdiction to hear and report on any such appeal, and may therein exercise all such powers as for the time being appertain to them in respect of appeals from any Court of Admiralty Jurisdiction, and all such powers as are under this Act vested in the High Court of Admiralty, and all such powers as were wont to be exercised by the Commissioners of Appeal in Prize Causes.

Custody of  
processes,  
papers, &c.

7. All processes and documents required for the purposes of any such appeal shall be transmitted to and shall remain in the custody of the Registrar of Her Majesty in Prize Appeals.

Limit of time  
for appeal.

8. In every such appeal the usual inhibition shall be extracted from the Registry of Her Majesty in Prize Appeals within three months after the date of the order or decree appealed from if the appeal be from the High Court of Admiralty, and within six months after that date if it be from a Vice-Admiralty Prize Court.

The Judicial Committee may, nevertheless, on sufficient cause shown, allow the inhibition to be extracted and the appeal to be prosecuted after the expiration of the respective periods aforesaid.

*Vice-Admiralty Prize Courts.*

9. Every Vice-Admiralty Prize Court shall enforce within its jurisdiction all Orders and decrees of the Judicial Committee in Prize Appeals and of the High Court of Admiralty in Prize Causes. Enforcement of Orders of High Court, &c.

10. Her Majesty in Council may grant to the judge of any Vice-Admiralty Prize Court a salary not exceeding 500*l.* a year, payable out of money provided by Parliament, subject to such regulations as seem meet. Salaries of Judges of Vice Admiralty Prize Courts.

A judge to whom a salary is so granted shall not be entitled to any further emolument, arising from fees or otherwise, in respect of prize business transacted in his court.

An account of all such fees shall be kept by the registrar of the court, and the amount thereof shall be carried to and form part of the Consolidated Fund of the United Kingdom.

11. In accordance, as far as circumstances admit, with the principles and regulations laid down in the Superannuation Act, 1859, Her Majesty in Council may grant to the judge of any Vice-Admiralty Prize Court an annual or other allowance, to take effect on the termination of his service, and to be payable out of money provided by Parliament. Retiring pensions of Judges, as in 22 & 23 Vict. c. 26.

12. The registrar of every Vice-Admiralty Prize Court shall, on the 1st day of January and 1st day of July in every year, make out a return (in such form as the Lords of the Admiralty from time to time direct) of all cases adjudged in the court since the last half-yearly return, and shall with all convenient speed send the same to the Registrar of the High Court of Admiralty, who shall keep the same in the registry of that court, and who shall, as soon as conveniently may be, send a copy of the returns of each half year to the Lords of the Admiralty, who shall lay the same before both Houses of Parliament. Returns from Vice-Admiralty Prize Courts.

*General.*

13. The Judicial Committee of the Privy Council, with the Judge of the High Court of Admiralty, may from time to time frame general orders for regulating (subject to the provisions of this Act) the procedure and practice of prize courts, and the duties and conduct of the officers thereof and of the practitioners therein, and for regulating the fees to be taken by the officers of the courts, and the costs, charges, and expenses to be allowed to the practitioners therein. General orders for prize courts.

Any such general orders shall have full effect, if and when approved by Her Majesty in Council, but not sooner or otherwise.

Every Order in Council made under this section shall be laid before both Houses of Parliament.

Every such Order in Council shall be kept exhibited in a conspicuous place in each court to which it relates.

Prohibition of officer of prize court acting as proctor, &c.

14 It shall not be lawful for any registrar, marshal, or other officer of any prize court, or for the Registrar of Her Majesty in Prize Appeals, directly or indirectly to act or be in any manner concerned as advocate, proctor, solicitor, or agent, or otherwise, in any prize cause or appeal, on pain of dismissal or suspension from office, by order of the court or of the judicial committee (as the case may require).

Prohibition of proctors being concerned for adverse parties in a cause.

15. It shall not be lawful for any proctor or solicitor, or person practising as a proctor or solicitor, being employed by a party in a prize cause or appeal, to be employed or concerned, by himself or his partner, or by any other person, directly or indirectly, by or on behalf of any adverse party in that cause or appeal, on pain of exclusion or suspension from practice in prize matters, by order of the court or of the judicial committee (as the case may require).

## II.—PROCEDURE IN PRIZE CAUSES.

### *Proceedings by Captors.*

Custody of prize ship.

16. Every ship taken as prize, and brought into port within the jurisdiction of a Prize Court, shall forthwith, and without bulk broken, be delivered up to the marshal of the court.

If there is no such marshal, then the ship shall be in like manner delivered up to the principal officer of customs at the port.

The ship shall remain in the custody of the marshal, or of such officer, subject to the orders of the court.

Bringing in of ship papers.

17. The captors shall, with all practicable speed after the ship is brought into port, bring the ship papers into the registry of the court.

The officer in command, or one of the chief officers of the capturing ship, or some other person who was present at the capture, and saw the ship papers delivered up or found on board, shall make oath that they are brought in as they were taken, without fraud, addition, subduction, or alteration, or else shall account on oath to the satisfaction of the court for the absence or altered condition of the ship papers or any of them.

Where no ship papers are delivered up or found on board the captured ship, the officer in command, or one of the chief officers of the capturing ship, or some other person who was present at the capture, shall make oath to that effect.

18. As soon as the affidavit as to ship papers is filed, a monition shall issue, returnable within twenty days from the service thereof, citing all persons in general to show cause why the captured ship should not be condemned. Issue of monition.

19. The captors shall, with all practicable speed after the captured ship is brought into port, bring three or four of the principal persons belonging to the captured ship before the judge of the court or some person authorised in this behalf, by whom they shall be examined on oath on the standing interrogatories. Examinations on standing interrogatories.

The preparatory examinations on the standing interrogatories shall, if possible, be concluded within five days from the commencement thereof.

20. After the return of the monition, the court shall, on production of the preparatory examinations and ship papers, proceed with all convenient speed either to condemn or to release the captured ship. Adjudication by court.

21. Where, on production of the preparatory examinations and ship papers, it appears to the court doubtful whether the captured ship is good prize or not, the court may direct further proof to be adduced, either by affidavit or by examination of witnesses, with or without pleadings, or by production of further documents; and on such further proof being adduced the court shall with all convenient speed proceed to adjudication. Further proof.

22. The foregoing provisions, as far as they relate to the custody of the ship, and to examination on the standing interrogatories, shall not apply to ships of war taken as prize. Custody, &c. of ships of war.

#### *Claim.*

23. At any time before final decree made in the cause, any person claiming an interest in the ship may enter in the registry of the court a claim, verified on oath. Entry of claim security for costs.

Within five days after entering the claim, the claimant shall give security for costs in the sum of sixty pounds; but the court shall have power to enlarge the time for giving security, or to direct security to be given in a larger sum, if the circumstances appear to require it.

#### *Appraisement.*

24. The court may, if it thinks fit, at any time direct that the captured ship be appraised. Power to court to direct appraisement.

Every appraisement shall be made by competent persons sworn to make the same according to the best of their skill and knowledge.

*Delivery on Bail.*

**Power to Court to direct Delivery to Claimant on Bail.** 25. After appraisement, the court may, if it thinks fit, direct that the captured ship be delivered up to the claimant, on his giving security to the satisfaction of the court to pay to the captors the appraised value thereof in case of condemnation.

*Sale.*

**Power to Court to order sale.** 26. The court may at any time, if it thinks fit, on account of the condition of the captured ship, or on the application of a claimant, order that the captured ship be appraised as aforesaid (if not already appraised), and be sold.

**Sale on condemnation.** 27. On or after condemnation the court may, if it thinks fit, order that the ship be appraised as aforesaid (if not already appraised), and be sold.

**How sales to be made.** 28. Every sale shall be made by or under the superintendence of the marshal of the court or of the officer having the custody of the captured ship.

**Payment of proceeds to Paymaster General or official accountant.** 29. The proceeds of any sale, made either before or after condemnation, and after condemnation the appraised value of the captured ship, in case she has been delivered up to a claimant on bail, shall be paid under an order of the court either into the Bank of England to the credit of Her Majesty's Paymaster General, or into the hands of an official accountant (belonging to the Commissariat or some other department) appointed for this purpose by the Commissioners of Her Majesty's Treasury or by the Lords of the Admiralty, subject in either case to such regulations as from time to time may be made, by Order in Council, as to the custody and disposal of money so paid.

*Small armed Ships.*

**One adjudication as to several small ships.** 30. The captors may include in one adjudication any number, not exceeding six, of armed ships not exceeding 100 tons each, taken within three months next before institution of proceedings.

*Goods.*

**Application of foregoing provisions to prize goods.** 31. The foregoing provisions relating to ships shall extend and apply, *mutatis mutandis*, to goods taken as prize on board ship; and the court may direct such goods to be unladen, inventoried, and warehoused.

*Monition to Captors to proceed.*

**Power to court to call on captors to proceed to adjudication.** 32. If the captors fail to institute or to prosecute with effect proceedings for adjudication, a monition shall, on the application of a claimant, issue against the captors, returnable within six days from the service thereof, citing them to appear and proceed

to adjudication ; and on the return thereof the court shall either forthwith proceed to adjudication or direct further proof to be adduced as aforesaid, and then proceed to adjudication.

*Claim on Appeal.*

33. Where any person, not an original party in the cause, intervenes on appeal, he shall enter a claim, verified on oath, and shall give security for costs.

Person intervening on appeal to enter claim.

### III.—SPECIAL CASES OF CAPTURE.

*Land Expeditions.*

34. Where, in an expedition of any of Her Majesty's naval or naval and military forces against a fortress or possession on land, goods belonging to the state of the enemy or to a public trading company of the enemy exercising powers of government are taken in the fortress or possession, or a ship is taken in waters defended by or belonging to the fortress or possession, a prize court shall have jurisdiction as to the goods or ship so taken, and any goods taken on board the ship, as in case of prize.

Jurisdiction of prize court in case of capture in land expedition.

*Conjunct Capture with Ally.*

35. Where any ship or goods is or are taken by any of Her Majesty's naval or naval and military forces while acting in conjunction with any forces of any of Her Majesty's allies, a prize court shall have jurisdiction as to the same as in case of prize, and shall have power, after condemnation, to apportion the due share of the proceeds to Her Majesty's ally, the proportionate amount and the disposition of which share shall be such as may from time to time be agreed between Her Majesty and Her Majesty's ally.

Jurisdiction of prize court in case of expedition with ally.

*Joint Capture.*

36. Before condemnation, a petition on behalf of asserted joint captors shall not (except by special leave of the court) be admitted, unless and until they give security to the satisfaction of the court to contribute to the actual captors a just proportion of any costs, charges, or expenses or damages that may be incurred by or awarded against the actual captors on account of the capture and detention of the prize.

Restriction on petitions by asserted joint captors.

After condemnation, such a petition shall not (except by special leave of the court) be admitted unless and until the asserted joint captors pay to the actual captors a just proportion

of the costs, charges, and expenses incurred by the actual captors in the case, and give such security as aforesaid, and show sufficient cause to the court why their petition was not presented before condemnation.

Provided, that nothing in the present section shall extend to the asserted interest of a flag officer claiming to share by virtue of his flag.

#### *Offences against Law of Prize.*

In case of offence by captors, prize to be reserved for Crown.

37. A prize court, on proof of any offence against the law of nations, or against this Act, or any Act relating to naval discipline, or against any Order in Council or royal proclamation, or of any breach of Her Majesty's instructions relating to prize, or of any act of disobedience to the orders of the Lords of the Admiralty, or to the command of a superior officer, committed by the captors in relation to any ship or goods taken as prize, or in relation to any person on board any such ship, may, on condemnation, reserve the prize to Her Majesty's disposal, notwithstanding any grant that may have been made by Her Majesty in favour of captors.

#### *Pre-emption.*

Purchase by Admiralty for public service of stores on board foreign ships.

38. Where a ship of a foreign nation passing the seas laden with naval or victualling stores intended to be carried to a port of any enemy of Her Majesty is taken and brought into a port of the United Kingdom, and the purchase for the service of Her Majesty of the stores on board the ship appears to the Lords of the Admiralty expedient without the condemnation thereof in a prize court, in that case the Lords of the Admiralty may purchase, on the account or for the service of Her Majesty, all or any of the stores on board the ship; and the Commissioners of Customs may permit the stores purchased to be entered and landed within any port.

#### *Capture by Ship other than a Ship of War.*

Prizes taken by ships other than ships of war to be droits of Admiralty.

39. Any ship or goods taken as prize by any of the officers and crew of a ship other than a ship of war of Her Majesty shall, on condemnation, belong to Her Majesty in Her Office of Admiralty.

## IV.—PRIZE SALVAGE.

40. Where any ship or goods belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is or are retaken from the enemy by any of Her Majesty's ships of war, the same shall be restored by decree of a prize court to the owner, on his paying as prize salvage one-eighth part of the value of the prize to be decreed and ascertained by the court, or such sum not exceeding one-eighth part of the estimated value of the prize as may be agreed on between the owner and the re-captors, and approved by order of the court: Provided, that where the re-capture is made under circumstances of special difficulty or danger, the prize court may, if it thinks fit, award to the re-captors as prize salvage a larger part than one-eighth part, but not exceeding in any case one-fourth part, of the value of the prize.

Salvage to re-captors of British ship or goods from enemy.

Provided also, that where a ship after being so taken is set forth or used by any of Her Majesty's enemies as a ship of war, this provision for restitution shall not apply, and the ship shall be adjudicated on as in other cases of prize.

41. Where a ship belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is retaken from the enemy by any of Her Majesty's ships of war, she may, with the consent of the re-captors, prosecute her voyage, and it shall not be necessary for the re-captors to proceed to adjudication till her return to a port of the United Kingdom.

Permission to re-captured ship to proceed on voyage.

The master or owner, or his agent, may, with the consent of the re-captors, unload and dispose of the goods on board the ship before adjudication.

In case the ship does not, within six months, return to a port of the United Kingdom, the re-captors may nevertheless institute proceedings against the ship or goods in the High Court of Admiralty, and the Court may thereupon award prize salvage as aforesaid to the re-captors, and may enforce payment thereof, either by warrant of arrest against the ship or goods, or by monition and attachment against the owner.

## V.—PRIZE BOUNTY.

42. If, in relation to any war, Her Majesty is pleased to declare, by proclamation or Order in Council, Her intention to grant prize bounty to the officers and crews of her ships of war, then such of the officers and crew of any of Her Majesty's ships of war as are actually present at the taking or destroying of any armed ship of any of Her Majesty's enemies shall be entitled to have distributed among them as prize bounty a sum calculated at a rate of five pounds for each person on board the enemy's ship at the beginning of the engagement.

Prize bounty to officers and crew present at engagement with an enemy.



Ascertainment  
of amount of  
prize bounty  
by decree of  
prize court.

43. The number of the persons so on board the enemy's ship shall be proved in a prize court, either by the examinations on oath of the survivors of them, or of any three or more of the survivors, or if there is no survivor by the papers of the enemy's ship, or by the examinations on oath of three or more of the officers and crew of Her Majesty's ship, or by such other evidence as may seem to the court sufficient in the circumstances.

The court shall make a decree declaring the title of the officers and crew of Her Majesty's ship to the prize bounty, and stating the amount thereof.

The decree shall be subject to appeal as other decrees of the court.

Payment of  
prize bounty  
awarded.

44. On production of an official copy of the decree the Commissioners of Her Majesty's Treasury shall, out of money provided by Parliament, pay the amount of prize bounty decreed, in such manner as any Order in Council may from time to time direct.

## VI.—MISCELLANEOUS PROVISIONS.

### *Ransom.*

Power for  
regulating  
ransom  
by Order in  
Council.

45. Her Majesty in Council may from time to time, in relation to any war, make such Orders as may seem expedient, according to circumstances, for prohibiting or allowing, wholly or in certain cases, or subject to any conditions or regulations or otherwise, as may from time to time seem meet, the ransoming or the entering into any contract or agreement for the ransoming of any ship or goods belonging to any of Her Majesty's subjects, and taken as prize by any of Her Majesty's enemies.

Any contract or agreement entered into, and any bill, bond, or other security given for ransom of any ship or goods, shall be under the exclusive jurisdiction of the High Court of Admiralty as a prize court (subject to appeal to the Judicial Committee of the Privy Council), and if entered into or given in contravention of any such Order in Council shall be deemed to have been entered into or given for an illegal consideration.

If any person ransoms or enters into any contract or agreement for ransoming any ship or goods, in contravention of any such Order in Council, he shall for every such offence be liable to be proceeded against in the High Court of Admiralty at the suit of Her Majesty in Her Office of Admiralty, and on conviction to be fined, in the discretion of the Court, any sum not exceeding five hundred pounds.

*Convoy.*

46. If the master or any other person having the command of any ship of any of Her Majesty's subjects, under the convoy of any of Her Majesty's ships of war, wilfully disobeys any lawful signal, instruction, or command of the commander of the convoy, or without leave deserts the convoy, he shall be liable to be proceeded against in the High Court of Admiralty at the suit of Her Majesty in Her Office of Admiralty, and upon conviction to be fined, in the discretion of the Court, any sum not exceeding five hundred pounds, and to suffer imprisonment for such time, not exceeding one year, as the Court may adjudge.

Punishment  
of masters of  
merchant  
vessels  
under convoy  
disobeying  
orders or  
deserting  
convoy.

*Customs, Duties, and Regulations.*

47. All ships and goods taken as prize and brought into a port of the United Kingdom shall be liable to and be charged with the same rates and charges and duties of Customs as under any Act relating to the Customs, may be chargeable on other ships and goods of the like description; and

Prize ships  
and goods  
liable to  
duties and  
forfeiture.

All goods brought in as prize, which would on the voluntary importation thereof be liable to forfeiture or subject to any restriction under the laws relating to the Customs, shall be deemed to be so liable and subject, unless the Commissioners of Customs see fit to authorise the sale or delivery thereof for home use or exportation, unconditionally or subject to such conditions and regulations as they may direct.

48. Where any ship or goods taken as prize is or are brought into a port of the United Kingdom, the master or other person in charge or command of the ship which has been taken or in which the goods are brought shall, on arrival at such port, bring to at the proper place of discharge, and shall, when required by any officer of Customs, deliver an account in writing under his hand concerning such ship and goods, giving such particulars relating thereto as may be in his power, and shall truly answer all questions concerning such ship or goods asked by any such officer, and in default shall forfeit a sum not exceeding one hundred pounds, such forfeiture to be enforced as forfeitures for offences against the laws relating to the Customs are enforced, and every such ship shall be liable to such searches as other ships are liable to, and the officers of the Customs may freely go on board such ship and bring to the Queen's warehouse any goods on board the same, subject, nevertheless, to such Regulations in respect of ships of war belonging to Her Majesty as shall from time to time be issued by the Commissioners of Her Majesty's Treasury.

Regulations  
of Customs  
to be observed  
as to prize  
ships and  
goods.

49. Goods taken as prize may be sold either for home consumption or for exportation; and if in the former case the proceeds thereof, after payment of duties of Customs, are insufficient to satisfy the just and reasonable claims thereon, the Commissioners of Her Majesty's Treasury may remit the whole or such part of the said duties as they see fit.

Power for  
Treasury to  
remit Customs  
duties in  
certain cases.

*. Perjury.*

Punishment  
of persons  
guilty of  
perjury.

50. If any person wilfully and corruptly swears, declares, or affirms falsely in any prize cause or appeal, or in any proceeding under this Act, or in respect of any matter required by this Act to be verified on oath, or suborns any other person to do so, he shall be deemed guilty of perjury, or of subornation of perjury (as the case may be), and shall be liable to be punished accordingly.

*Limitation of Actions, &c.*

Actions  
against  
persons exe-  
cuting Act  
not to be  
brought  
without  
notice, &c.

51. Any action or proceeding shall not lie in any part of Her Majesty's dominions against any person acting under the authority or in the execution or intended execution or in pursuance of this Act for any alleged irregularity or trespass, or other Act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within six months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within six months next after the doing of such damage has ceased.

In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting under the authority or in the execution or intended execution or in pursuance of this Act, and may give all special matter in evidence; and the plaintiff shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action; and in case no tender has been made, the defendant may, by leave of the court in which the action is brought, at any time pay into court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the court as may be had and made on the payment of money into court in an ordinary action; and if the plaintiff does not succeed in the action, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer, subject to review; and though a verdict is given for the plaintiff in the action he shall not have costs against the defendant, unless the judge before whom the trial is had certifies his approval of the action.

Any such action or proceeding against any person in Her Majesty's Naval Service or in the employment of the Lords of the Admiralty, shall not be brought or instituted elsewhere than in the United Kingdom.

*Petitions of Right.*

52. A petition of right, under the Petitions of Right Act, 1860, may, if the suppliant thinks fit, be intituled in the High Court of Admiralty, in case the subject matter of the petition or any material part thereof arises out of the exercise of any belligerent right on behalf of the Crown, or would be cognizable in a prize court within Her Majesty's dominions if the same were a matter in dispute between private persons.

Jurisdiction of High Court of Admiralty on petitions of right in certain cases, as in 23 & 24 Vict. c. 34.

Any petition of right under the last-mentioned Act, whether intituled in the High Court of Admiralty or not, may be prosecuted in that Court, if the Lord Chancellor thinks fit so to direct.

The provisions of this Act relative to appeal, and to the framing and approval of general orders for regulating the procedure and practice of the High Court of Admiralty, shall extend to the case of any such petition of right intituled or directed to be prosecuted in that Court; and, subject thereto, all the provisions of the Petitions of Right Act, 1860, shall apply, *mutatis mutandis*, in the case of any such petition of right; and for the purposes of the present section the terms "court" and "judge" in that Act shall respectively be understood to include and to mean the High Court of Admiralty and the judge thereof, and other terms shall have the respective meanings given to them in that Act.

*Orders in Council.*

53. Her Majesty in Council may from time to time make such Orders in Council as seem meet for the better execution of this Act.

Power to make Orders in Council.

54. Every Order in Council under this Act shall be published in the "London Gazette" and shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament is then sitting, and, if not, then within thirty days after the next meeting of Parliament.

Order in Council to be gazetted, &c.

*Savings.*

55. Nothing in this Act shall—

- (1) give to the officers and crew of any of Her Majesty's ships of war any right or claim in or to any ship or goods taken as prize or the proceeds thereof, it being the intent of this Act that such officers and crews shall continue to take only such interest (if any) in the proceeds of prizes as may be from time to time granted to them by the Crown; or
- (2) affect the operation of any existing treaty or convention with any foreign power; or

Not to affect rights of crown; effect of treaties, &c.

- (3) take away or abridge the power of the crown to enter into any treaty or convention with any foreign power containing any stipulation that may seem meet concerning any matter to which this Act relates ; or
- (4) take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of Her Crown, or in right of Her Office of Admiralty, or any right or power of the Lord High Admiral of the United Kingdom, or of the Commissioners for executing the Office of Lord High Admiral ; or
- (5) take away, abridge, or control, further or otherwise than as expressly provided by this Act, the jurisdiction or authority of a prize court to take cognizance of and judicially proceed upon any capture, seizure, prize, or reprisal of any ship or goods, and to hear and determine the same, and, according to the course of Admiralty and the law of nations, to adjudge and condemn any ship or goods, or any other jurisdiction or authority of or exerciseable by a prize court.

*Commencement.*

**Commence-  
ment of Act.**

56. This Act shall commence on the commencement of The Naval Agency and Distribution Act, 1864.

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## PRIZE COURTS ACT, 1894.

[57 &amp; 58 VICT. c. 39.]

An Act to make further provision for the establishment of Prize Courts, and for other purposes connected therewith.  
[17th August 1894.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Prize Courts Act, 1894.

Short title.

2.—(1.) Any commission, warrant, or instructions from Her Majesty the Queen or the Admiralty for the purpose of commissioning or regulating the procedure of a prize court at any place in a British possession may, notwithstanding the existence of peace, be issued at any time, with a direction that the court shall act only upon such proclamation as herein-after mentioned being made in the possession.

Constitution of prize courts in British possessions.

(2.) Where any such commission, warrant, or instructions have been issued, then, subject to instructions from Her Majesty, the Vice-Admiral of such possession may, when satisfied by information from a Secretary of State or otherwise, that war has broken out between Her Majesty and any foreign State, proclaim that war has so broken out, and thereupon the said commission, warrant, and instructions shall take effect as if the same had been issued after the breaking out of such war and such foreign State were named therein.

(3.) The said commission and warrant may authorise either a Vice-Admiralty Court or a Colonial Court of Admiralty, within the meaning of the Colonial Courts of Admiralty Act, 1890, to act as a prize court, and may establish a Vice-Admiralty Court for that purpose.

53 & 54 Vict. c. 27.

(4.) Any such commission, warrant, or instructions may be revoked or altered from time to time.

(5.) A court duly authorised to act as a prize court during any war shall after the conclusion of the war continue so to act in relation to, and finally dispose of, all matters and things which arose during the war, including all penalties and forfeitures incurred during the war.

3.—(1.) Her Majesty the Queen in Council may make rules of court for regulating, subject to the provisions of the Naval Prize Act, 1864, and this Act, the procedure and practice of prize courts within the meaning of that Act, and the duties and conduct of the officers thereof, and of the practitioners therein, and for regulating the fees to be taken by the officers of the

Rules of court for and fees in prize courts. 27 & 28 Vict. c. 25.

courts, and the costs, charges, and expenses to be allowed to the practitioners therein.

(2.) Every rule so made shall, whenever made, take effect at the time therein mentioned, and shall be laid before both Houses of Parliament, and shall be kept exhibited in a conspicuous place in each court to which it relates.

27 & 28 Vict.  
c. 25. (3.) This section shall be substituted for section thirteen of the Naval Prize Act, 1864, which section is hereby repealed.

53 & 54 Vict.  
c. 27. (4.) If any Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, is authorised under this Act or otherwise to act as a prize court, all fees arising in respect of prize business transacted in the court shall be fixed, collected, and applied in like manner as the fees arising in respect of the Admiralty business of the court under the said Act.

As to Vice-  
Admiralty  
Courts.

4. Her Majesty the Queen in Council may make rules of court for regulating the procedure and practice, including fees and costs, in a Vice-Admiralty Court, whether under this Act or otherwise.

Repeal of  
39 & 40 Geo. 3.  
c. 79. s. 25.

5. Section twenty-five of the Government of India Act, 1800, is hereby repealed.

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**Rules of Court touching the Practice in Prize  
Proceedings to be observed in Vice-Admiralty  
Courts and Colonial Courts authorised to act  
as Prize Courts.**

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*Interpretation.*

1. In these Rules and the forms thereto annexed, unless the context otherwise requires, the following expressions shall have and include the meanings hereby assigned to them, that is to say:—

- “Actuary” shall mean any person appointed by the registrar to act for the registrar in the cases provided by these Rules;
- “Captor” shall mean any person taking or seizing, or having taken or seized, any ship or goods as prize, and shall (for the purposes of proceedings in any cause or matter) include the captor’s solicitor (if any);
- “Cause” shall mean any prize proceeding instituted to determine the right, title, or interest of any party to, in, or against ship or goods, or bounty, or as against any other party;
- “Claimant” shall mean any person who shall assert a claim to ship or goods taken or seized and proceeded against as prize, and shall (for the purposes of proceedings in any cause or matter) include the claimant’s solicitor (if any);
- “Consul” shall include vice-consul and acting consul or acting vice-consul;
- “Counsel” shall include any advocate, barrister-at-law, or other person entitled to practise and have audience in the Court;
- “Court” shall mean any Vice-Admiralty Court or Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, duly authorised to act as a Prize Court;
- “Crown” shall include the Crown in its office of Admiralty;
- “Goods” shall include all such things as are by the course of Admiralty and law of nations the subject of adjudication as prize (other than ships);
- “Judge” shall mean any Judge of the Court acting in the exercise of prize jurisdiction, or any person lawfully authorised to act as such judge;
- “Lords of the Admiralty” shall mean the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral;



- "Marshal" shall mean the marshal of the Court, or any deputy or assistant marshal thereof;
- "Month" shall mean calendar month;
- "Owner" shall include any person to whom by operation of law the property in ship or goods seized or taken as prize, shall, in whole or part, have passed, and shall also include any person intervening in a cause on behalf of an owner, or intervening and claiming or alleging an interest in such ship or goods;
- "Party" shall (for the purposes of proceedings in any cause or matter) include the party's solicitor (if any);
- "Person" shall include company and corporation and body politic;
- "Petitioner" shall (for the purposes of proceedings in any cause or matter) include the petitioner's solicitor (if any);
- "Port" shall include any harbour or place within the jurisdiction of the Court into which ships can be brought or in which they can obtain shelter;
- "Possession" shall mean any colony, plantation, settlement, island, or territory, being a part of Her Majesty's dominions, but not being within the limits of the United Kingdom of Great Britain and Ireland;
- "Proper officer of the Crown" shall mean the advocate, solicitor, or other agent for the Crown authorised to conduct prize proceedings on behalf of the Crown within the jurisdiction of the Court;
- "Registrar" shall mean the registrar of the Court, or any deputy or assistant registrar thereof;
- "Registry" shall mean the registry of the Court;
- "Respondent" shall (for the purposes of proceedings in any cause or matter) include the respondent's solicitor (if any);
- "Ship" shall include vessel and boat, with the tackle, furniture, and apparel of the ship, vessel, or boat; and the provisions of these Rules relative to ships shall extend and apply, *mutatis mutandis*, to goods taken as prize, whether on board ship or not, and to freight (if any) due or to grow due; and for such purpose the term "ship" when used in these Rules shall also mean "goods" and "freight";
- "Ship papers" shall include, in addition to those specified in the Naval Prize Act, 1864, sect. 2, all commissions, warrants, and other documents found on board of a captured ship of war, or in the possession of any of her officers or crew or of any other person on board of her;
- "Solicitor" shall mean any proctor, solicitor, or attorney entitled to practise in the Court.

In these Rules, unless repugnant to the context, the singular number shall include the plural, and the plural number shall include the singular.

*Institution of Causes.*

2. Every cause instituted for the condemnation of a ship as prize shall, except as herein-after provided, be instituted in the name of the Crown; but the proceedings therein may, with the consent of the Crown (through the proper officer of the Crown), be conducted by the captors or any parties to whom the ship would on condemnation be condemned as prize.

All other causes may be instituted in the name of the parties claiming.

3. Causes instituted for the condemnation of a ship as prize shall commence by a monition in the form marked No. 3 in the Appendix hereto.

The monition shall be issued from the registry on the application of the captors acting herein through the proper officer of the Crown, or on the application of the Crown.

No monition shall be issued until an affidavit has been filed as to ship papers.

No monition for the condemnation of a ship as prize shall be issued until the ship has been brought within the jurisdiction of the Court.

4. All causes or proceedings instituted for the recovery of prize salvage (except where the ship is brought in for adjudication) or prize bounty, or to enforce a claim of joint capture, shall be commenced by monition or warrant in manner and form in these Rules herein-after provided, and in the name of the parties proceeding.

5. Before the issue of any monition or warrant as aforesaid the party applying therefor shall file in the registry a præcipe, which shall contain the names of the party (whether captor, Crown, or other party) applying for the monition or warrant, and of his solicitor, and an address within three miles of the registry, at which it shall be sufficient to leave all instruments and other documents required to be served on him.

6. All causes shall be numbered in the order in which they are instituted, and the number given to any cause shall be the distinguishing number of the cause, and shall be written or printed on all instruments and other documents in the cause as part of the title thereof, and the cause shall be entered in the minute book under such number.

Forms of the title of a cause will be found marked Nos. 1 (i. and ii.) in the Appendix hereto.

*Arrest of Prize.*

7. Every ship taken or seized as prize and delivered up to the marshal of the Court shall be deemed to be under the arrest of the Court. [The Naval Prize Act, 1864, s. 16.]

[The Naval  
Prize Act,  
1864, s. 16.]

8. Where a ship is taken as prize and is brought into port within the jurisdiction of the Court, or is seized as prize in port within such jurisdiction, or having been taken or seized as prize comes or is howsoever within the jurisdiction of the Court, but is not delivered up to the marshal of the Court, the Judge may, after claim made, and after monition to the captors to proceed, as herein-after provided, and upon the application of the claimant, order a warrant for the arrest of the ship to be issued.

9. Where, in any proceeding under the Naval Prize Act, 1864, or under these Rules, it shall be made to appear to the Judge by the Crown or any party to a cause other than a claimant that property taken or seized as prize is within the jurisdiction of the Court, and that it is necessary or desirable that such property should be within the custody of the Court, the Judge may, on the application of the Crown or such party, order a warrant for the arrest of such property to be issued.

[The Naval  
Prize Act,  
1864, ss. 16,  
28.]

10. Where there is no marshal of the Court the principal officer of customs at the port where the ship is or should be delivered up shall perform the duties and have the powers of the marshal, and shall be, for such purposes, an officer of the Court.

#### *Affidavit as to Ship Papers.*

[The Naval  
Prize Act,  
1864, s. 17.]

11. Where a ship is seized in any port of Her Majesty's dominions and is proceeded against as prize, the affidavit as to ship papers may be made by any officer or person present at such seizure.

12. Where ship papers are delivered up or found in ordinary course at the time of capture or seizure, the affidavit as to ship papers shall be in the form marked No. 5 (i.) in the Appendix hereto.

Where any ship papers have, after being delivered up or found, been lost, mislaid, injured or altered, or where any ship papers are found hidden or concealed, the affidavit shall be in one of the forms marked Nos. 5 (ii., iii., and iv.) in the Appendix hereto, with such variations as the facts may require.

Where no ship papers are delivered up or found on board the ship, the affidavit shall be in the form marked No. 5 (v.) in the Appendix hereto.

13. All affidavits as to ship papers shall, except as herein-after provided, be prepared by the registrar or by one of his actuaries at the port into which the ship is brought or in which she is seized. The person in charge of the ship shall produce to such registrar or actuary all the ship papers (if any) delivered up or found on board the ship, and such affidavits

shall, except as herein-after provided, be sworn before the Judge or the registrar, or one of the Commissioners appointed to take the preparatory examinations at the said port.

14. The ship papers shall be exhibited to the affidavit and shall be numbered consecutively; and the person before whom the affidavit is sworn shall initial each of the documents.

15. Where no person who was present at the capture can proceed with the ship when brought in for adjudication, the affidavit as to ship papers shall be prepared by and sworn before any British Consul or other person empowered to administer oaths in prize matters in any port or place into which it is convenient to send the prize with any person who was present as aforesaid, or by and before any naval officer duly commissioned to administer oaths in prize matters.

16. The affidavit as to ship papers shall, unless otherwise ordered by the Judge or previously sworn, be sworn within three days after the ship is brought in for adjudication or is seized in port and shall, with the ship papers exhibited thereto, be filed in the registry within three days after the same is sworn as aforesaid, or, if sworn out of the jurisdictions within three days after the ship is brought in for adjudication.

17. Where ship papers are in the custody or under the control of any person within the jurisdiction of the Court, the Judge may, on the application of the captor or of the claimant, order the person having such custody or control to bring the papers into Court; and thereupon such person shall bring in all ship papers as exhibits to an affidavit in the form marked No. 5 (vi.) in the Appendix hereto.

*Issue and Service of Monition for Condemnation.*

18. Every monition in a cause for the condemnation of a ship as prize shall within three days after the application for the issue thereof be issued out of the registry and served by the marshal or his substitute.

A form of præcipe for the monition will be found marked No. 2 in the Appendix hereto.

19. Service of the monition shall be effected by affixing the original monition for a short time upon the Exchange or such other public building or place in the city or town where the Court is held, as the Judge shall direct, and on taking off the monition leaving a true copy fixed in its place.

The copy shall be left so fixed for a period of at least twenty days.

The monition and the fact of service thereof shall be advertized by the registrar forthwith in one or more of such newspapers published or in circulation in the city or town where the Court is held and on one or more occasions as the Judge shall direct.

20. The monition shall be filed by the marshal within 20 days after service as aforesaid, with a certificate of service endorsed thereon; and 20 days after such service, and no sooner, shall be deemed to be returned. The certificate of service shall state the date and mode of service, and shall be signed by the person serving the same, and shall be taken as evidence of such service and of the date and mode thereof.

A form of certificate of service will be found marked No. 4 in the Appendix hereto.

21. Where the monition is issued in respect of a ship purporting to be neutral, notice of the institution of the cause shall be sent by the registrar to the consul of the state to which the ship purports to belong.

*Appearance to Monition for Condemnation.*

[The Naval  
Prize Act,  
1864, s. 23.]

22. Any person claiming an interest in or against the ship proceeded against for condemnation may at any time before final adjudication enter an appearance, and shall thereupon become a party to the cause.

23. A party appearing in a cause for the condemnation of a ship shall file an appearance at the place directed by the monition.

24. The appearance shall be signed by the party appearing, and shall state his name and address, and an address to be called an address for service, not more than three miles from the registry, at which it shall be sufficient to leave all documents required to be served on him.

Forms of appearance will be found marked Nos. 6 (i. and ii.) in the Appendix hereto.

*Claims on behalf of Owners, &c.*

25. A person claiming an interest in a ship proceeded against for condemnation shall after appearance make his claim in one of the forms marked Nos. 7 (i.-vii.) in the Appendix hereto, with such variations as the circumstances require.

Every claim shall be verified by an affidavit which shall be in one of the forms marked Nos. 8 (i.-vii.) in the Appendix hereto, with such variations as the circumstances require.

[The Naval  
Prize Act,  
1864, s. 23.]

Claims may be made by masters of ships, or other agents authorized by the persons in whom interest is alleged, except where such persons are domiciled or ordinarily resident within the jurisdiction, in which case they themselves must claim.

Claims shall be entered by filing the same in the registry.

Claims may be amended by leave of the Judge and not otherwise.

[The Naval  
Prize Act,  
1864, s. 23.]

26. A claimant may give security for costs by bail-bond, or in such other manner as the Judge shall direct.

*Preparatory Examinations.*

27. The standing interrogatories shall be the interrogatories contained in form marked No. 9 in the Appendix hereto, or contained in such other form as may from time to time be directed by Her Majesty in Council, and no other interrogatory or interrogatories shall be used in the preparatory examination except by special order of the Judge on the application of the Crown or captors made on motion in court.

28. The preparatory examination on the standing interrogatories shall commence within one week after the ship is brought in for adjudication, unless the Judge shall otherwise direct.

29. The preparatory examination shall take place at the port into which the ship is brought, unless the Judge shall otherwise direct, and before two of the Commissioners authorized to take such examinations: but the Judge may in any case direct that such examination shall be taken before the Judge.

If the examination is ordered to take place before the Judge, the following rules shall operate as if, wherever the word "Commissioners" is used, the word "Judge" was used.

Such Commissioners shall be appointed by one or more commissions, as the Judge shall direct. A form of commission will be found marked No. 10 in the Appendix hereto.

30. If the person bringing in or in charge of the ship shall fail to produce the witnesses for preparatory examination within the week aforesaid, the Judge may, upon such failure being brought to his knowledge by the Commissioners appointed to take such examination, or otherwise, make an order on the person bringing in or in charge of the ship that the witnesses shall be produced for examination within a time named in the order. Failure to comply with such order shall be deemed a contempt of Court, and shall be punishable accordingly.

It shall be the duty of the said Commissioners to see that the proper persons are produced for the preparatory examination, and to report any failure to produce them.

31. The preparatory examination shall be continued as far as possible *de die in diem*.

32. Each witness shall be examined at the preparatory examination separately and privately, and no person shall be present at such examination except the Commissioners, the registrar, or an actuary substituted by him, the interpreter (if any), and the witness.

The examination of each witness shall, so far as possible, be completed before the examination of another is commenced.

33. Each and every question in the standing interrogatories shall be put separately to the witness by the registrar or actuary in the presence of the Commissioners, and his answer thereto shall be reduced into writing by the registrar or actuary.

34. When the examination of a witness is completed, his deposition shall be read over to him by the registrar or actuary, so that the witness can understand the same, and he shall sign or make his mark upon each sheet of the deposition upon which his answers are written.

35. When the deposition has been read over and signed (or marked) as aforesaid, and after the Commissioners have given the witness an opportunity of correcting the same, if required, and have ascertained that he understands the contents thereof and acknowledges them to be true, a certificate in the form marked No. 11 in the Appendix hereto shall be written by the registrar or actuary at the end of each deposition and shall be signed by the Commissioners, and the registrar or actuary, and the interpreter (if any), as appears in such form. Every correction made by the witness of his deposition as aforesaid shall appear upon the deposition together with the original words, and the Commissioners shall in the return herein-after mentioned report the circumstances under which such correction was made and their own opinion as to the *bona fides* or otherwise of such correction.

36. When all the witnesses produced for preparatory examination have been examined, the registrar or actuary shall prepare a heading to the depositions, and shall put the depositions together under such heading, and shall prepare a return. Such heading and return shall be in the forms marked respectively No. 12 and No. 13 in the Appendix hereto.

The registrar or actuary shall cause the affidavit, with the ship papers annexed, and the depositions in answer to the standing interrogatories, and the return, to be deposited in the registry; but the said documents shall not be deemed to be deposited or returned until all fees due in respect thereof shall have been paid by the parties instituting the cause, and until such payment no further proceedings shall be taken by the said parties.

37. Where a witness produced for examination refuses to answer, or where, in the opinion of the Commissioners, he is keeping back material facts within his knowledge, the Commissioners shall adjourn the examination of the witness and shall forthwith report the circumstances to the Court. Upon receiving such report the Judge, upon the application of the captors, may, if he sees fit, order the witness to be produced for examination on the interrogatories in court, or order such witness to duly answer the interrogatories before the Commissioners; and any failure on the part of such witness to make due answers to the interrogatories after such order shall be deemed contempt of Court and shall be punishable accordingly.

Upon receiving such a report as aforesaid the Judge may, if he sees fit, direct the Commissioners to return the depositions of the other witnesses taken in the preparatory examination.

38. In the event of any difficulty arising in the conduct of the preparatory examination, the Commissioners may apply to the Court through the registrar for instructions.

39. Any preparatory examination may, by order of the Judge, be held before the registrar instead of before two Commissioners, and in such case the preceding Rules shall be read as if they contained the word "registrar" instead of "Commissioners."

*Monition to Captors to proceed.*

40. Where a ship has been taken or seized as prize, and still remains detained, and no cause is instituted against the ship within one month from the time she is so taken or seized, a claimant may, after filing a claim as provided by Rule 25 and giving security as provided by Rule 26, apply for a monition against the captors, citing them to appear and proceed to adjudication. [The Naval Prize Act, 1864, s. 32.]

41. Where a ship has been seized and detained as prize, but has been subsequently released by the captors, or has, by loss or otherwise, ceased to be detained by them without proceedings for condemnation having been taken, and the owner wishes to make a claim for costs and damages in respect of such seizure and detention, or any loss or injury resulting therefrom, he may, after filing a claim as provided by Rule 25 and giving security as provided by Rule 26, apply for a monition against the captors citing them to appear and proceed to adjudication. [The Naval Prize Act, 1864, s. 32.]

42. Where, after a cause has been instituted, the captors fail to take any of the steps by the Rules provided within the respective times therein provided, or, in the opinion of the Judge, fail to prosecute with effect the proceedings for adjudication, the Judge may, upon the application of a claimant who has filed a claim as provided by Rule 25 and given security as provided by Rule 26, order a monition to issue against the captors citing them to appear and proceed to adjudication.

43. The monition to proceed shall be in the form marked No. 15 in the Appendix hereto, and shall be issued on the filing of a præcipe in the form marked No. 14 in the Appendix hereto.

44. The monition to proceed shall be served personally on the officer in command of the capturing ship or of the actual captors, or on any person in charge of the captured ship on behalf of the captors, or, in the case of a ship seized in port, on the person seizing the same or in possession thereof. Where the capture or seizure has been made by any of Her Majesty's ships or by officers of the Crown, service of a monition to proceed upon the proper officer of the Crown shall be sufficient service.

45. The monition to proceed shall be served by the marshal or his substitute, and shall, within six days after the service



thereof, be filed by him in the registry with a certificate of service, and shall thereupon be deemed to be returned.

A form of certificate of service will be found marked No. 16 in the Appendix hereto.

46. Where, before the issue of a monition to proceed, no cause for condemnation has been instituted against the ship, upon issue thereof a cause shall be deemed to be instituted, and upon the return of the said monition the Judge may proceed to adjudication as herein-after provided.

47. If a captor cited by a monition to proceed appears thereto and is willing to proceed, upon his filing the affidavit as to ship papers the cause shall proceed in the same form and manner as if he had instituted the cause.

[The Naval  
Prize Act,  
1864, s. 32.]

48. If a captor cited by a monition to proceed fails to appear within the time limited for appearance, or appearing, declines to proceed, the Judge may either at once order the ship to be restored to the claimant upon such terms as to costs or damages or otherwise as to the Judge shall seem fit, or, if the case so requires, order that any person, whether a captor or otherwise, having the necessary information shall make the affidavit as to ship papers, and that the necessary witnesses shall be examined on the standing interrogatories. Upon the said affidavit being filed, the cause shall proceed in the same form and manner as if the captor had instituted the cause.

49. A party appearing to a monition to proceed shall file an appearance in the registry. The appearance shall be in the form marked No. 17 in the Appendix hereto.

#### *First Hearing.*

[The Naval  
Prize Act,  
1864, s. 20.]

50. At the first hearing of any cause instituted for the condemnation of a ship as prize, the cause shall be heard and considered upon the preparatory examinations taken in relation to the said ship, and upon the ship papers exhibited to the affidavit as to ship papers in the cause, and upon no other evidence :

Provided, that ship papers in other causes may be invoked, by leave of the Judge, as prescribed by Rules 188, 189, and 190 ; and

Provided, that a document delivered up or found on board the ship, but not exhibited to the affidavit as to ship papers, may be admitted as evidence if the omission of such document from the affidavit is explained to the satisfaction of the Judge ; and

Provided, that, in the case of a ship of war taken as prize, the cause may be heard upon the ship papers (if any) alone, or upon evidence to be given by the captors in such form as the Judge shall direct.

51. No ship is to be condemned on the mere want of a claim until a year and a day have elapsed from the return of the monition, unless there be upon the ship papers or preparatory examinations sufficient evidence that such ship belongs to the enemy, or is otherwise liable to condemnation or confiscation.

*Further Proof.*

52. Where further proof is to be given by any person or persons out of the jurisdiction of the Court, it shall be given on affidavit, unless the Judge shall otherwise order. [The Naval Prize Act, 1864, s. 21.]

Every order for further proof shall name the time within which such proof is to be filed.

Forms of affidavit on further proof and of order for further proof will be found marked No. 18 and No. 115 (viii.) respectively in the Appendix hereto.

53. Where further proof is ordered to be given by the oral examination of witnesses, such examination shall take place before the Judge or before the Commissioners, or before a special examiner or special commissioners as the Judge shall direct.

54. The further proof, whether by affidavit or oral examination, shall be filed by the party on whose behalf it is produced.

55. Where, after an order for further proof, the claimant fails to file such proof within the time named in the order, the Judge may proceed to adjudication, or may extend the time for filing such proof as he shall see fit.

56. Captors shall not be allowed to adduce further proof unless by special leave of the Judge. Every order for further proof with pleadings shall be deemed to include such leave unless it is otherwise ordered.

57. Where further proof has been adduced, the Judge may order additional further proof to be adduced: Provided, that no such order shall be made where further proof has been ordered with pleadings, except under special circumstances. The provisions contained in the preceding Rules with regard to further proof shall apply also to additional further proof.

*Prize Salvage.*

58. A ship brought into port within the jurisdiction of the Court as prize by the captors, but liable to restoration on payment of salvage, shall be proceeded against in the same form and manner as all other ships captured as prize: [The Naval Prize Act, 1864, ss. 40, 41.]

Provided, that it shall only be necessary, unless the Judge shall otherwise direct, to examine one person on the standing interrogatories; and

Provided, that if at the first hearing the captors allege circumstances of special difficulty and danger, and the claimants do not admit such circumstances, the Judge, if he is not satisfied that the full facts appear from the preparatory examinations and the ship papers, may direct that further evidence be taken either on behalf of captors, or claimants, or both. Such evidence shall be given in such form (orally, by affidavit, by production of documents, &c.), and with or without pleadings, as the Judge shall direct, and the cause shall thereupon proceed as in a case on further proof.

[The Naval Prize Act, 1864, ss. 40, 41.]

59. Where, on recapture from the enemy by any of Her Majesty's ships, or by any persons other than her own crew, a ship, which, if brought into port by the recaptors, would have been liable to restoration on payment of salvage, is with the consent of the recaptors allowed to prosecute her voyage, or otherwise parts company with or ceases to be in the possession of the recaptors, the recaptors may take proceedings for the recovery of such salvage, either—

- (1) *in rem* against the ship, or
- (2) *in personam* against the owner :

[The Naval Prize Act, 1864, s. 41.]

Provided, that proceedings *in rem* against the ship shall not be commenced unless and until the ship shall come into a port within the jurisdiction of the Court, and that no proceedings *in personam* against the owner of the ship shall be commenced unless the owner is resident or domiciled within the said jurisdiction.

[The Naval Prize Act, 1864, ss. 40, 41.]

60. Where a ship captured by the enemy is recaptured by the crew of such ship, and is brought into any port within the jurisdiction of the Court, the recaptors may take proceedings to recover salvage in respect of such recapture, either—

- (1) *in rem* against the ship, or
- (2) *in personam* against the owner, if resident or domiciled within the jurisdiction.

[The Naval Prize Act, 1864, ss. 40, 41.]

61. Proceedings *in rem* shall be commenced by a warrant of arrest.

Proceedings *in personam* shall be commenced by monition.

A person desiring to institute any such proceedings shall file in the registry a præcipe containing his name, the name of his solicitor, and an address for service, in the form marked No. 19 in the Appendix hereto.

Forms of warrant of arrest and monition will be found marked respectively No. 20 and No. 21 in the Appendix hereto.

[The Naval Prize Act, 1864, ss. 40, 41.]

62. In a proceeding *in rem* a warrant for the arrest of the ship, and in a proceeding *in personam* a monition against the owner, may be issued by the registrar upon the filing of a præcipe as aforesaid and an affidavit.

The affidavit shall state the nature of the claim of the recaptors and shall set out all the material facts on which they rely to establish their claim. If all the material facts cannot be deposed to by one of the recaptors, the said facts may be deposed to by two or more of the recaptors in one or more affidavits as may be required.

Forms of affidavit to lead warrant and to lead monition will be found marked No. 22 (i. and ii.) and No. 23 respectively in the Appendix hereto.

63. The warrant or monition shall be served by the marshal or his substitute, and shall be filed by him with a certificate of service within three days from the service thereof, and shall thereupon be deemed to be returned. [The Naval Prize Act, 1864, ss. 40, 41.]

64. Any owner desiring to enter an appearance in a cause of prize salvage shall file an appearance in the registry.

The appearance shall be signed by the party appearing, and shall state his name and address, and an address, to be called an address for service, not more than three miles from the registry at which it shall be sufficient to leave all documents required to be served upon him.

An owner who shall not enter an appearance until after the expiration of six days from the service of the warrant or monition shall pay all costs that may have been occasioned by his default.

Forms of appearance will be found marked No. 24 (i. and ii.) in the Appendix hereto.

65. Within one week or such other time as the Judge shall direct after a claim has been entered by the owner in cases under Rule 58, or after appearance has been entered by the owner in cases under Rules 59 and 60, the owner shall file an affidavit setting out the value of the property claimed or alleged to have been salvaged, or an agreement with the recaptors as to such value.

Acceptance by the recaptors of the value sworn in the affidavit shall be deemed to be an agreement as to such value.

Forms of affidavit and of agreement of value will be found marked No. 25 and No. 26 respectively in the Appendix hereto.

In cases where no claim is made, or no appearance is entered, or default is made in filing an affidavit or agreement of value, or where the recaptors are dissatisfied with the value deposed to, the Judge may, on the application of the recaptors, direct the property to be appraised by the marshal.

In all cases under Rules 58, 59, and 60, the value shall be ascertained as aforesaid before the hearing.

66. Within one week or such other time as the Judge shall direct after an appearance has been entered by the owner in cases under Rules 59 and 60, the owner shall, if he desires to dispute the facts alleged in the affidavits to lead warrant or monition, file an affidavit or affidavits in support of his case. [The Naval Prize Act, 1864, ss. 40, 41.]

[The Naval  
Prize Act,  
1864, ss. 40,  
41.]

67. Upon return of the warrant or monition the Judge shall fix a day for the hearing, and shall on such date, if he deems the evidence sufficient, make his decree.

If no appearance has been entered on or before such date the Judge shall proceed and make his decree as if appearance had been entered.

If at such hearing the Judge shall by reason of the recaptors alleging circumstances of special difficulty or danger or for other reasons, deem the evidence before him insufficient, he may direct that further evidence be taken either on behalf of the recaptors or owner or both. Such evidence shall be given in such form (orally, by affidavit, by production of documents, &c.) and with or without pleadings as the Judge shall direct.

Upon such further evidence being adduced the Judge shall make his decree.

[The Naval  
Prize Act,  
1864, ss. 40,  
41.]

68. Where a ship is under arrest and the owner is entitled to restoration on payment of salvage, the Judge may, if he thinks fit, at any time after the value of the ship has been ascertained by appraisement, or agreed on between the owner and the recaptors and approved by the Court, direct that the ship be delivered up to the owner on his giving security to the satisfaction of the Court to pay to the recaptors the salvage and costs which may be decreed to be due.

[The Naval  
Prize Act,  
1864, ss. 40,  
41.]

69. Where at the time of a decree or order awarding prize salvage the ship is under arrest, the decree or order of the Court may be enforced by sale of the ship and payment of the amount due out of the proceeds of sale.

[The Naval  
Prize Act,  
1864, ss. 40,  
41.]

70. Where a ship under arrest has been released on security being given, the decree or order awarding prize salvage may be enforced :

- (1) if money has been paid into court, by order for payment out;
- (2) if bail has been given, by monition and execution against the bail, and, if necessary, and if not contrary to the law of the Possession, by attachment of them.

Forms of order for payment out, monition against the bail and attachment, will be found marked respectively Nos. 99, 103, and 104 in the Appendix hereto.

[The Naval  
Prize Act,  
1864, s. 41.]

71. Where a ship has not been arrested, but the proceedings for prize salvage have been by monition against the owner, the decree or order may be enforced by a monition against the owner to pay the amount awarded, and by execution against, and, if not contrary to the law of the Possession, by attachment of the owner in default of payment. If the owner makes default in payment, the Judge may, if he sees fit, direct a warrant to issue for the arrest of the ship on such ship coming within the jurisdiction of the Court, and may order a sale of the ship and

payment of the award to be made out of the proceeds of such sale.

Forms of monition and attachment will be found marked respectively Nos. 103 and 104 in the Appendix hereto.

72. Where any salvage is awarded to any persons other than officers and crews of Her Majesty's ships of war, either alone or conjointly with such officers and crews, the Judge may make an order apportioning such salvage between such persons, or between such persons and such officers and crews, in such proportions as to the Judge shall seem fit :

Provided, that nothing herein contained shall be taken to authorise the distribution of salvage among such officers and crews, or to affect Her Majesty's Proclamations as to the distribution of Prize Money.

Forms of decrees in prize salvage will be found marked No. 115 (xi.-xv.) in the Appendix hereto.

73. No decree or order for the payment of salvage to salvors shall be made unless and until the Judge is satisfied that no persons other than the said salvors are entitled to share in such salvage.

#### *Land Expeditions and Conjunct Capture with Ally.*

74. Ships and goods taken by land expeditions within the meaning of the Naval Prize Act, 1864, sect. 34, or by a conjunct capture with an ally within the meaning of sect. 35 of the said Act, shall be proceeded against, as far as possible, in the same manner as herein-before provided in the case of other ships and goods captured as prize :

[The Naval Prize Act, 1864, ss. 34, 35.]

Provided, that the Judge may, if he thinks fit, dispense with the whole or any part of the preparatory examinations and the affidavits as to ship papers, and may, if he thinks fit, admit evidence, in such form as he shall direct, on behalf of the captors at the first hearing.

#### *Joint Capture.*

75. In Rules 76 to 89 inclusive the word "joint captor" shall include any person claiming to share as joint recaptor in prize salvage.

76. Any person claiming to share as joint captor (in Rules 75 to 89 inclusive called "the petitioner") may, at any time after the institution of a cause relating to a ship in respect of which he claims a share, subject to the provisions of the Naval Prize Act, 1864, sect. 36, intervene in such cause as herein-after provided :

[The Naval Prize Act, 1864, s. 36.]

- (1.) A præcipe shall be filed in such cause by the petitioner in the registry, instituting a cause of joint capture or joint recapture.

- (2.) If the cause is instituted before condemnation of the ship in respect of which the petitioner claims to share, or in prize salvage before adjudication, the petitioner shall within six days after filing his præcipe give the security provided by the said section, and within 10 days after such security is given shall file in the registry a petition setting out the material facts on which he relies to establish his claim to share as aforesaid.
- (3.) If the cause is instituted after condemnation of the ship in respect of which the petitioner claims to share, or, in case of prize salvage, after adjudication, the Judge shall, upon sufficient cause being shown why the petition was not presented before condemnation or adjudication, and upon payment being made and security being given (as by the said section of the Naval Prize Act, 1864, provided), order a monition to issue calling upon the party to whom the ship has been condemned, or (in case of prize salvage) the recaptor (in Rules 75 to 89 inclusive called "the respondent"), to show cause why the petitioner should not be pronounced to be a joint captor of the said ship.
- (4.) Where the cause is instituted after condemnation, the petitioner shall, within 10 days after such payment has been made and such security has been given, file a petition setting out all the material facts on which he relies to establish his claim to share as aforesaid.
- (5.) The respondent shall appear to the monition by filing an appearance in the registry within the time named in the monition.

Forms of præcipe, appearance, petition, and monition to show cause will be found marked Nos. 27, 28, 39 (iii.), and 29, respectively, in the Appendix hereto.

77. On a petition being filed as aforesaid, the Judge shall, on an early day to be appointed on the application of either the petitioner or the respondent, proceed to determine in court the admissibility of such petition. If the petition alleges facts which, if proved, would establish the right of the petitioner to be declared a joint captor, the Judge shall admit the petition to proof. If the petitioner does not allege such facts, the petition shall be dismissed, with or without costs against the petitioner.

Provided, that the Judge may give leave to amend any such petition upon such terms as to costs and otherwise as he deems right, and upon such amendment being made he shall determine the admissibility of the petition in manner aforesaid.

78. Where a petition is admitted to proof, the respondent, if he desires to contest the right of the petitioner to share, shall file an answer.

A form of answer will be found marked No. 39 (iii.) in the Appendix hereto.

If the respondent admits the right of the petitioner to share, he shall file in the registry an admission in the form marked No. 30 in the Appendix hereto.

79. Upon the answer, and the reply thereto (if any), or admission being filed, the petition shall be heard in court, on an early day to be appointed by the Judge, upon the application of either party, upon evidence in such form as the Judge on the hearing of such application shall direct.

80. If in a cause instituted against a ship for condemnation as prize a cause of joint capture or joint recapture is instituted before condemnation, the Judge may, at the hearing of the principal cause, upon condemnation of the ship as lawful prize to the Crown, determine the title of the petitioner to share as aforesaid, pronouncing either—

- (1) against the title or interest of the petitioner to share as aforesaid; or
- (2) in favour of such title or interest, and condemning the ship as lawful prize to the Crown taken by the respondent together with the petitioner;

or he may reserve the question by whom taken, and determine the said title in manner aforesaid on such later date as he may appoint.

81. If in a cause instituted against a ship for condemnation as prize a cause of joint capture or joint recapture is instituted after condemnation, the Judge shall, on the day appointed, hear and determine the title or interest of the petitioner, and pronounce as in the last preceding Rule provided.

82. In claims to share in prize salvage the Judge shall, on the day appointed, hear and determine the title or interest of the petitioner to share, and pronounce accordingly.

Forms of decree in joint capture and joint recapture will be found marked No. 115 (xvi.-xxii.) in the Appendix hereto.

83. The costs of and occasioned by the petition shall, as the Judge shall direct, be borne by the petitioner or respondent or be paid out of the proceeds of the ship if condemned.

84. Upon the hearing of a petition on proof the ship papers and preparatory examinations shall be evidence, and in addition thereto the petitioner and respondent may adduce other evidence in support of their several allegations. Such evidence may be documentary or by the testimony of witnesses, or both. If the testimony of witnesses is given, it may be given by affidavit or by oral examination in court or before the registrar, a commissioner, or special examiner, as the Judge shall direct.

85. Except by special leave of the Judge, no evidence, other than the testimony of witnesses taken orally in court at the



hearing of the petition on proof, shall be admissible unless the same be filed in the registry three days before such hearing.

86. Except by special leave of the Judge no party shall be admitted to claim to share as a joint captor in a prize or in prize salvage unless he shall institute his cause and file his petition within six months from the date on which the Judge shall have pronounced any other party entitled to such prize or prize salvage.

87. Where in any proceedings instituted for condemnation or for the recovery of prize salvage the title or interest of the party instituting such proceedings is denied by any other party who asserts that he has as captor or recaptor the sole title or interest in the prize or salvage, proceedings may be taken for the purpose of determining such title or interest in the form and manner herein provided for determining the title and interest in a claim of joint capture: Provided, that the petitioner shall not be required to give any security or pay any costs before so proceeding unless so ordered by the Judge, and that the form of proceedings shall assert such sole title and interest instead of a joint title and interest, and that the petition shall be filed within 10 days after the cause is instituted by the petitioner instead of after security given. Upon the hearing of such petition the Judge may, as the facts appear, pronounce for a sole or a joint title or interest.

[The Naval  
Prize Act,  
1864, s. 36.]

88. A claim by a flag officer to share in prize or prize salvage by virtue of his flag shall not be made until after condemnation, but shall then be made in the same form and manner, and the same proceedings shall be had thereon, as in cases of asserted joint capture or recapture:

Provided, that such flag officer shall not be required to pay costs or give security for costs, or to show sufficient cause as in other cases by the Naval Prize Act, 1864, sect. 36, enacted, and that a monition shall issue on the filing of a præcipe without application to the Judge.

All other applications to share in prize, prize proceeds, or prize salvage shall, unless the Judge shall otherwise direct, be made by motion.

89. Proceedings to establish a right to share, whether in prize or prize salvage, shall, although taken and intituled in an existing cause, for the purposes of these Rules be deemed a cause.

#### *Prize Bounty.*

90. In claims for prize bounty the procedure shall be as follows:—

- (1.) Where the ship is brought in for adjudication the application for a decree under the Naval Prize Act, 1864, sect. 43, shall be made in court at the first hearing of the principal cause.

[The Naval  
Prize Act,  
1864, s. 43.]

- (2.) Where the ship has been destroyed, or, having been taken, has not been brought in for adjudication, the application for a decree as aforesaid shall be made by motion in court.
- (3.) Before any such application is made, a monition calling upon the proper officer of the Crown to appear and show cause, within the time named therein (not less than four days), why the applicants should not be declared entitled to prize bounty shall, on the filing of a præcipe by the party claiming bounty, issue out of the registry.
- (4.) The witnesses to be examined in support of the application shall be examined before one or more of the Commissioners authorized to take preparatory examinations:  
 Provided, that the Judge may, if he sees fit, direct the evidence of any such witnesses to be taken on affidavit.
- (5.) If the Judge makes a decree in favour of the application and there are no parties other than the original applicants claiming to share in the bounty, the Judge may upon the hearing of the application, or at a later date if he shall see fit, make a decree declaring the title of the applicants to the prize bounty, and stating the amount thereof. If there are other persons claiming to share in the bounty, the Judge may make a decree that bounty is due, stating the amount thereof, but reserving the question to whom the said bounty is due.

Forms of præcipe, monition and decree, will be found marked Nos. 31, 32, and 115 (xxiii.-xxvi.), respectively, in the Appendix hereto.

91. All claims to share as joint captors in prize bounty shall be, as far as possible, subject to the same procedure and rules, and be heard and determined in the same manner, as herein provided in the case of claims to share as joint captors in prize.

#### *Offences against Law of Prize.*

92. Where in any prize proceeding an allegation by or on behalf of a claimant or party of any offence, breach, or act in the Naval Prize Act, 1864, sect. 37, mentioned, or of any other similar act affecting the title of the captor to prize or condemnation is made in any document, deposition, or pleading against the captor, the Judge may, if he thinks fit, upon the application of the captor, make an order upon the party complaining to deliver to the captor, within a time to be named in the order, particulars in writing of the offence, breach, or act complained of, and the time and place thereof and the injuries (if any) sustained thereby, upon such terms as to costs and otherwise as may seem just. If the particulars when delivered are, in the opinion of the Judge, insufficient, he may order further and better particulars on the like terms as to costs and otherwise.

[The Naval Prize Act, 1864, s. 37.]

Forms of summons and orders and particulars will be found marked Nos. 33, 34, and 35, respectively, in the Appendix hereto.

*Pre-emption.*

[The Naval  
Prize Act,  
1864, s. 38.]

93. Where goods are taken and brought in and the Lords of the Admiralty elect to purchase them under the Naval Prize Act, 1864, sect. 38, or otherwise, for the service of Her Majesty before adjudication, the Judge shall, on the application of the proper officer on notice of motion to be served on the owner of the goods affected or his agent, order the said goods to be appraised by the marshal and sold to the Lords of the Admiralty, and that the proceeds of the sale thereof shall be paid into Court, reserving the question whether such proceeds on payment in are to be restored or condemned.

94. Upon payment into Court of such proceeds of sale, they shall be subject to the same rights and liabilities, and be dealt with in the same manner, as the goods themselves would have been if not sold as aforesaid.

Forms of notice of motion, affidavit, and order will be found marked Nos. 36, 37, and 38, respectively, in the Appendix hereto.

95. Every order for sale as aforesaid shall be made subject to the payment by the Lords of the Admiralty to the owners or captors of such freight, costs and expenses as may be found due to them by order or decree of the Judge.

*Pleadings.*

96. Where any prize proceeding is to be heard on pleadings, the claimant or petitioner shall within one week from the date of the order directing pleadings, or, in the case of joint capture, within the time herein-before prescribed, file his petition, and within one week from the filing of the petition, or, in the case of joint capture, within one week from the admission of the petition to proof, the captor or respondent shall file his answer, and within three days from the filing of the answer, the claimant or petitioner shall file his reply, if any; and there shall be no pleadings beyond the reply, excepting by order of the Judge.

A copy of every pleading shall, before filing, be delivered to the adverse party.

97. Every pleading shall be divided into short paragraphs numbered consecutively, which shall state concisely the facts on which the party relies, and shall be signed by the party filing it, or by counsel on his behalf. Forms of pleadings will be found marked Nos. 39 (i.-iv.) in the Appendix hereto.

98. Wherever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as

briefly as possible, without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material.

99. Every allegation of fact in any pleading, if not denied specifically or by necessary implication, or stated to be not admitted, in the pleading of the opposite party, shall be taken to be admitted.

100. Any party may apply to the Judge to decide forthwith any question of law raised by any pleading, and the Judge shall thereupon make such order as to him shall seem fit.

101. Any pleading may at any time be amended either by consent of the parties, or by order of the Judge.

*Discovery, Inspection, and Production of Documents.*

102. The Judge may order any party to a cause to make discovery on oath of any documents which are or have been in his possession or power relating to any matter in question therein:

Provided, that no such order shall be made in relation to the first hearing of a cause for condemnation.

103. The affidavit of the discovery shall specify which, if any, of the documents therein mentioned the party objects to produce, and the grounds of his objection. A form of affidavit of discovery will be found marked No. 40 in the Appendix hereto.

104. Any party to a cause may, for the purposes of any hearing in a cause other than a first hearing in a cause for condemnation, file a notice to any other party to produce, for inspection or transcription, any document in his possession or power relating to any matter in question in the cause. A form of notice to produce will be found marked No. 41 in the Appendix hereto.

105. If the party served with notice to produce omits or refuses to do so within the time specified in the notice, the adverse party may apply to the Judge for an order to produce, and the Judge may, if he thinks fit, make such order. A form of order will be found marked No. 42 in the Appendix hereto.

106. Notice to produce documents at any hearing other than a first hearing in a cause for condemnation shall be in the form marked No. 43 in the Appendix hereto with such variations as the circumstances may require.

107. Any claimant, after filing his claim and his affidavit verifying his claim (but not before, except by leave of the Judge), may inspect in the registry and take copies of the ship papers and preparatory examinations filed in the cause in which he claims.

*Custody of Prize, and Appraisement and Sale.*

[The Naval  
Prize Act,  
1864, ss. 24,  
26, 27, 31.]

108. In the event of the Judge directing the appraisement and sale, or either, of the captured ship, an inventory of the ship shall be taken prior to such appraisement or sale.

[The Naval  
Prize Act,  
1864, s. 26.]

109. The Judge may, at any time, on account of the condition, or for the safe custody, or for the purposes of the sale, of any property which has been captured or seized as prize, and is under the arrest of the Court, order the removal of such property by and under the custody of the marshal.

Forms of decrees and orders directing appraisement and sale will be found marked Nos. 38 and 115 (i., vi., xi., xii., xv., xx., and xxvii.).

[The Naval  
Prize Act,  
1864, ss. 26,  
27.]

110. Where a ship is ordered to be sold, such sale shall be either by public auction or by private contract as the Judge shall direct.

111. Before ordering the sale or the removal of a ship or goods or the unloading and warehousing of goods, or at any time for the purpose of ascertaining the character or condition of ship or goods, the Judge may order the same to be surveyed.

112. The appraisement and sale of ships and goods, the removal and survey thereof, and the unloading and warehousing of goods shall be effected under an order of the Court addressed to the marshal or such other person as the Judge shall direct.

Forms of such orders and bills of sale by the marshal will be found marked Nos. 44, 45, 46, 47, 48, 49, and 50 (i. and ii.) in the Appendix hereto.

113. Where the Judge orders any act or acts in Rule 112 mentioned to be done, the registrar shall, on the filing of a præcipe by the party who has obtained the order, issue to the marshal an order of the Court signed by the registrar to do such act or acts, and such order shall be sufficient authority to the marshal to do the same.

114. Every order issued under Rule 112 shall, as soon as possible after its execution, be filed by the marshal with a return, setting forth the manner in which it has been executed. The marshal shall, with the order, file his accounts and the vouchers in support thereof.

[The Naval  
Prize Act,  
1864, s. 29.]

115. Every order for sale shall contain directions as to the disposal of the proceeds of sale, and the marshal shall pay the same as directed therein, and shall file his accounts in the registry.

116. The registrar shall tax all the marshal's accounts, and shall report the amount which he considers should be allowed; and any party to the cause may be heard before the registrar on the taxation.

The Judge on the application of any party may review the registrar's taxation.

The amount found due to the marshal shall be paid out to him on an order signed by the Judge.

Forms of summons for review and of order for payment out will be found marked Nos. 51 and 99 respectively in the Appendix hereto.

117. All costs and expenses of and incidental to orders issued under Rule 112 shall in the first instance be borne and paid by the party on whose application the order is issued.

118. The Judge may, if he thinks fit, upon the application of any party to a prize proceeding, order any property under the arrest of the Court or being the subject-matter of a prize proceeding to be inspected by any party thereto or by any person appointed by the Court.

Forms of summons and order for inspection of property will be found marked Nos. 52 and 53, respectively, in the Appendix hereto.

119. Upon an order for further proof being made, a claimant shall, unless the Judge otherwise orders, be entitled to an order for appraisement.

120. Where the Judge directs that goods be unladen, inventoried, and warehoused, they shall, unless the Judge otherwise orders, remain in the custody of the marshal until sale or restitution thereof. [The Naval Prize Act, 1864, s. 31.]

#### *Delivery on Bail.*

121. An order directing that the captured ship be delivered up to the claimant on bail or other security shall not be made until after an order for further proof or a decree for restitution to the claimant, except by the consent of all parties or in case of recapture. [The Naval Prize Act, 1864, s. 25.]

122. Where the Judge directs that the captured ship be delivered up to the claimant on bail or other security, a release shall be issued, but before the issue thereof the Judge may direct that either party give security for costs and expenses.

Forms of notice of motion and order for delivery on bail will be found marked Nos. 54 and 55, respectively, in the Appendix hereto.

#### *Warrants.*

123. Except in cases of warrants issued in prize salvage under Rule 62, a warrant for the arrest of property shall be issued only on the order of the Judge.

No warrants shall be issued for the arrest of property until after either—

- (1.) A monition to captors to proceed has been issued, or
- (2.) An affidavit has been filed by the party applying for the warrant as herein-after prescribed.

124. The affidavit shall state the grounds upon which the application is made and that the aid of the Court is required. Forms of affidavits to lead warrant will be found marked Nos. 56, 57, 58, and 22 (i. and ii.) in the Appendix hereto.

125. Warrants shall be prepared in the registry and shall be signed by the registrar and issued under the seal of the Court.

Forms of warrant will be found marked Nos. 59 and 20 in the Appendix hereto.

126. The warrant shall be served by the marshal, and such service shall be effected as follows:—

- (1) upon ship, freight, or goods on board, by attaching the warrant for a short time to the mainmast or single mast, or to some other conspicuous part of the ship, and by leaving a copy of the warrant attached thereto;
- (2) upon goods or freight where the goods have been landed or transhipped or are not on board a ship, by attaching the warrant for a short time to such goods, and by leaving a copy of the warrant attached thereto; or, if the person having the custody of the goods refuses access thereto, by showing the warrant to such person and by leaving with him a copy thereof;
- (3) upon freight or proceeds of prize in the hands of any person other than a person holding the same on behalf of the Court, by showing the warrant to him, and by leaving with him a copy thereof;
- (4) upon freight or proceeds in Court, by showing the warrant to the registrar, and by leaving with him a copy thereof;
- (5) where it is expedient that ship, freight, or goods should be arrested at once, the marshal may, after a warrant is placed in his hands for execution, authorise his substitute by telegraph to detain such ship or goods until the service of the warrant can be duly effected as herein provided.

A warrant served as in sub-section (3) provided, shall be deemed to be an order for payment into Court forthwith of the freight or proceeds in respect of which the warrant is issued: Provided that, instead of such warrant, the Judge may, if he sees fit, order a monition to issue against the person holding or having received such freight or proceeds, directing payment of the same into Court. Such monition shall be served by the marshal.

A form of monition will be found marked No. 60 in the Appendix hereto.

127. Warrants may be served on any day, including Sunday, Good Friday, and Christmas Day.

128. Warrants shall be filed by the marshal within one week after service thereof has been completed, with a certificate of service endorsed thereon.

A form of certificate of service will be found marked No. 108 in the Appendix hereto.

*Bail.*

129. Whenever bail is required by these Rules, it shall be given by filing one or more bail bonds, each of which shall be signed by two sureties, unless the Judge shall, on special cause shown, order that one surety shall suffice.

130. Every bail bond shall be prepared in the registry and shall be signed before the registrar or, by his direction, before a clerk in the registry, or before a commissioner appointed by the Court to take bail.

The bail bond shall be in the form marked No. 62, and the commission shall be in the form marked No. 64 in the Appendix hereto.

131. Sureties may attend to sign a bond either separately or together.

132. Sureties shall justify, except by consent of the parties. If bail is taken before the registrar, the sureties shall justify by affidavit or by oath administered by the registrar.

If bail is taken before a commissioner, the sureties shall justify by affidavit.

133. The commission to take bail and the affidavits of justification shall be prepared in the registry and issued with the bail bond, and shall with the bail bond, when executed, be returned to the registry by the commissioner. The commissioners authorised to take preparatory examinations shall be standing commissioners to take bail; and no special commission to take bail shall be issued where bail can without inconvenience be taken before such standing commissioners, unless the Judge shall so direct.

134. No commissioner shall be entitled to take bail in any cause in which he, or any person in partnership with him, is acting as solicitor or agent.

135. Before filing a bail bond notice of bail shall be served upon the adverse party, and a certificate of such service shall be endorsed on the bond by the party filing it.

A form of notice of bail will be found marked No. 65 in the Appendix hereto.

136. If the adverse party is not satisfied with the sufficiency of any surety, he may file a notice objecting to such surety, or requiring him to justify, if he has not already done so.



Forms of notice to justify, affidavit of justification, and notice of objection to bail will be found marked Nos. 66, 67, and 68, respectively, in the Appendix hereto.

137. Objections to sureties shall be heard and determined in first instance by the registrar.

138. Every bail bond with the affidavits of justification annexed shall be filed in the registry. No bail bond shall be filed until after the expiration of 24 hours from the service of notice of bail upon the adverse party.

139. Where bail is given in a cause for condemnation it shall be deemed to be given and to be answerable to not merely the actual captors, but to all parties having any rights in or against the property, including the Crown and the Crown in its office of Admiralty.

#### *Releases.*

140. Property under arrest shall only be released under the authority of an instrument to be called a release.

141. A release may be issued by order of the Judge.

142. A release may also be issued by the registrar, unless there is a caveat outstanding against the release of the property,—

- (1) where the property under arrest has been ordered by the Judge to be delivered on bail, and one or more bail bonds have been filed for the appraised value of the property arrested and on proof that 24 hours' notice of the names and addresses of the sureties has been previously served on the party at whose instance the property has been arrested; or
- (2) where the property has been arrested at the instance of the Crown, on the filing by the proper officer of the Crown of consent to or request for a release; or
- (3) where the property is under arrest in proceedings for condemnation, on the filing by the captors of a consent to restitution with a declaration endorsed thereon by the proper officer of the Crown that the Crown proceeds no further; or
- (4) where, the proceedings having been instituted by or on behalf of the Crown, such proceedings are discontinued by the Crown, or the property is ordered to be restored by the Court; or
- (5) where in proceedings for the recovery of prize salvage the parties claiming salvage discontinue their proceedings, or their claim is dismissed; or
- (6) where in proceedings for prize salvage one or more bail bonds have been filed, or other satisfactory security has

been given, for the amount of salvage claimed and costs, and on proof that the notice above prescribed in subsection (1) of this Rule has been served.

Provided, that the registrar may refuse to issue a release without the order of the Judge; and

Provided, that no release shall affect the right (if any) of the owners of the property captured or seized to costs and damages against the captor, unless so ordered by the Judge.

143. Where property has been arrested for prize salvage, the release shall not be issued under the foregoing Rules, except on discontinuance of the proceedings or dismissal of the claim, until the value of the property arrested has been agreed upon between the parties or ascertained as by these Rules provided, unless the Judge shall otherwise order.

144. The release shall be prepared in the registry, and shall be signed by the registrar, and shall be issued under the seal of the Court. The release shall be in the form marked No. 70 in the Appendix hereto.

145. The release shall be served on the marshal, either personally, or by leaving it at his office, by the party by whom it is taken out.

146. On service of the release, and payment to the marshal of all fees due to and charges incurred by him in respect of the property, the property shall be at once released from arrest, and thereupon the marshal shall file the release with a certificate endorsed thereon of the date of the execution thereof.

In causes instituted for the condemnation of a ship as prize, such fees and charges shall be paid by the party taking out the release, unless the Judge shall otherwise order.

In other causes such fees and charges shall be paid by such party as the Judge shall direct.

#### *Caveats.*

147. Where a ship has been recaptured, and is subject to a claim for prize salvage but is not under arrest, any person desiring to prevent the arrest of such ship may file a notice in the registry, undertaking to enter an appearance in any cause for the recovery of prize salvage that may have been or may be instituted against such ship, and to give bail in such cause in a sum not exceeding an amount to be stated in the notice, or to pay such sum into the registry; and a caveat against the issue of a warrant for the arrest of the ship shall thereupon be entered in the caveat warrant book herein-after mentioned.

Forms of notice and of caveat warrant will be found marked Nos. 71 and 72, respectively, in the Appendix hereto.

148. A party taking proceedings for prize salvage against a ship, in respect of which a caveat has been entered in the

caveat warrant book, shall forthwith serve a copy of the præcipe instituting the proceedings upon the party on whose behalf the caveat has been entered, and within three days of the service of the copy of the præcipe the party on whose behalf the caveat has been entered shall, if the sum claimed does not exceed the amount for which he has undertaken, give bail in such sum or pay the same into the registry.

149. If the party on whose behalf the caveat has been entered shall not within the three days prescribed by Rule 148, have given bail in such sum or paid the same into the registry, the party claiming salvage may proceed by default, and on filing his proofs in the registry may have the cause placed on the list for hearing; and if when the cause comes before the Judge he is satisfied that the claim is well founded, he may pronounce for the amount which appears to him to be due, and may enforce payment thereof by attachment against the party on whose behalf the caveat has been entered, and by arrest of the property if it then be or thereafter come within the jurisdiction of the Court.

150. The entry of a caveat warrant shall not prevent the issue of a warrant for the arrest of any property, but a party at whose instance a warrant shall be issued for the arrest of any property in respect of which there is a caveat warrant outstanding shall be condemned in all costs and damages occasioned thereby, unless he shall show to the satisfaction of the Judge good and sufficient reason for such issue.

151. Any person desiring to prevent the release of any property under arrest, shall file a notice in the registry, and thereupon the registrar shall enter a caveat in the caveat release book herein-after mentioned. Forms of notice and of caveat release will be found marked Nos. 73 and 74, respectively, in the Appendix hereto.

152. Any person desiring to prevent the payment of money out of Court shall file a notice in the registry, and thereupon the registrar shall enter a caveat in the caveat payment book herein-after mentioned. Forms of notice and of caveat payment will be found marked Nos. 75 and 76, respectively, in the Appendix hereto.

153. If the person entering a caveat is not a party to the cause, the notice shall state his name and address, and an address within three miles of the registry at which it shall be sufficient to leave all documents required to be served upon him.

154. The party at whose instance a caveat release or caveat payment is entered shall be condemned in all costs and damages occasioned thereby, unless he shall show to the satisfaction of the Judge good and sufficient reason for such entry.

155. A caveat shall not remain in force for more than six months from the date of entering the same.

156. A caveat may at any time be withdrawn by the person at whose instance it has been entered, on his filing a notice withdrawing it. A form of notice of withdrawal will be found marked No. 77 in the Appendix hereto.

157. The Judge may overrule any caveat.

*Motions, Summonses, and other Applications.*

158. Any application to the Judge at any time other than at the hearing of the cause shall, if made in Court, be made by motion, or, if made in chambers and not *ex parte*, by summons.

159. The matters which may be disposed of by the Judge in chambers shall be as follows :

Applications relating to :

- (1.) The manner of procedure ; the form of instruments, documents, and decrees, and the drawing up of the same ; and the records of the Court.
- (2.) The amendment of claims, pleadings, and instruments, and other proceedings.
- (3.) The setting down of causes for hearing ; the time for any hearing or for doing any act or taking any proceeding ; and the enlargement or abridgment of time ; and the adjournment of proceedings.
- (4.) The bringing in and filing of evidence other than the invocation of documents ; the form in which evidence is to be given ; the persons by whom, and the manner in which, evidence is to be taken ; and the printing of evidence and of pleadings and other documents.
- (5.) The mode and form of the hearing of a cause or other proceeding.
- (6.) The discovery and inspection and copying of documents.
- (7.) The attendance of persons for the purpose of giving evidence or of producing documents.
- (8.) The service and delivery of instruments, notices, pleadings, and other documents ; and the filing thereof.
- (9.) The summoning of assessors.
- (10.) The appraisalment or ascertainment of value of ship, goods, and freight.
- (11.) The amount and sufficiency of bail or other security, and the sureties to bail bonds.
- (12.) The removal and inventorying of ship or goods ; the unloading and warehousing of goods ; and the survey and inspection of ship or goods.
- (13.) The issue of monitions under Rule 76.
- (14.) Particulars under Rule 92.

- (15.) Marshals' fees and charges, and the taxation of all marshals' accounts.
- (16.) Court fees and charges.
- (17.) Costs and the liability for the payment thereof, and the taxation thereof, and security for costs.
- (18.) Orders by consent.
- (19.) Payments into Court.
- (20.) Proceedings on appeal.

Any number of the applications aforesaid may be included in one summons.

All other applications shall be made in Court.

160. A party desiring to obtain an order from the Judge on motion in Court shall file in the registry a notice of motion with the affidavit in support thereof (if any) at least 24 hours before the hearing of the motion, and a copy of the notice of motion and of the affidavits (if any) shall be served on the adverse party before the originals are filed.

Provided, that by consent of the adverse party, or by order of the Judge, the time for giving such notice may be shortened.

161. A party desiring to obtain an order from the Judge on summons in chambers shall prepare the summons and have the same sealed in the registry, and the summons shall thereupon be deemed to be issued. A copy of the summons shall be filed in the registry.

162. Every summons shall, after issue, be served upon the adverse party at least 24 hours before the date of the return thereof, unless by consent of the adverse party, or by order of the Judge, the time for such service is shortened.

163. Every notice of motion and summons shall state the nature of the order desired, and the day on which the application is to be made.

164. The hearing of any motion or summons or application may from time to time be adjourned upon such terms, if any, as the Judge shall think fit.

165. When the motion or summons comes on for hearing the Judge may, after hearing the parties, or in the absence of any of them, on proof that the notice of motion or summons has been duly served, make such order as he shall deem right.

166. The registrar may transact all such business and exercise all such authority and jurisdiction in respect of the same as under these Rules may be transacted or exercised by the Judge in chambers, except in respect of the following proceedings and matters, that is to say—

- (1) all matters relating to the liberty of the subject or attachments

- (2) issuing commissions for taking evidence out of the jurisdiction;
- (3) awarding of costs other than the costs of or relating to any proceeding before the registrar and other costs which, by these Rules or by the order of the Judge, the registrar is authorised to award;
- (4) reviewing taxation of costs;
- (5) orders for the issuing of warrants other than in cases of prize salvage and orders for release other than those in Rule 142 specified.

Provided, that the registrar shall only transact such business and exercise such authority and jurisdiction where he has power to transact the like business and exercise the like authority and jurisdiction in matters arising out of the ordinary jurisdiction of the Court other than prize.

Provided, further, that any application in chambers shall, if required by any party thereto, be heard by the Judge.

167. Save as herein-after provided, no motion shall be made or summons heard without previous notice to or service on the parties affected thereby, but the Judge, if satisfied that the delay caused by proceeding in the ordinary way would, or might, entail irreparable or serious mischief, may make any order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Judge may think just; and any party affected by such order may move to set it aside.

168. Any application made in chambers *ex parte* shall, if the Judge or registrar think fit so to require, be made by summons.

169. Any party affected by any order or decision made on summons in chambers may appeal to the Judge in Court. Such appeal shall be by way of motion in Court, and shall be made within two days after the order or decision appealed from.

170. The Judge may on due cause shown vary or rescind any order or decision previously made on motion or summons other than an order made in Court on an appeal from chambers.

171. An appeal from the decision of the Judge or registrar in chambers shall be no stay of proceedings unless so ordered by the Judge or registrar.

172. Forms of notice of motion and summons will be found marked Nos. 78 and 79, respectively, in the Appendix hereto.

#### *Evidence.*

173. Evidence, except as by these Rules expressly provided, shall be given either by affidavit (including documents verified thereby) or by oral examination, or partly in one mode and partly in another.

174. Evidence on motion or summons shall in general be given by affidavit. Evidence at any hearing of a cause, other than the first hearing of a cause for condemnation, shall in general be given by affidavit, but, where a cause is heard on pleadings, evidence shall in general be given by the oral examination of witnesses. Provided, that the mode or modes in which evidence shall be given either on any motion or summons or at any hearing other than a first hearing as aforesaid may be determined by order of the Judge.

175. The Judge may order any person within the jurisdiction who has made an affidavit in the cause to attend for cross-examination thereon before the Judge, or the registrar or a commissioner.

176. Where evidence at the hearing of a cause is ordered to be given by the oral examination of witnesses, the examination of such witnesses shall, if possible, be taken at the hearing before the Judge.

177. Where it shall appear that a witness cannot attend the hearing of such cause, the Judge may order that such witness shall be examined previously thereto before the Judge or registrar.

A form of order for examination of witnesses will be found marked No. 80 in the Appendix hereto.

178. If the witness cannot be conveniently examined before the Judge or the registrar, or is out of the jurisdiction of the Court, the Judge may order that he shall be examined before a commissioner specially appointed for the purpose, or, if the witness is in a foreign country, may order, in lieu of a commission, the issue of a request to examine such witness in the foreign country.

Forms of a commission to examine witnesses, of an order for a request and of a request, will be found marked Nos. 81, 83, and 84, respectively, in the Appendix hereto.

179. Any examination of a witness may be adjourned, if necessary, from time to time, and from place to place, as the Judge, registrar, or commissioner before whom such examination is taken shall direct.

180. Where witnesses are examined orally, as provided in Rules 173 to 185 inclusive, whether before the Judge, the registrar or a commissioner, the parties, their counsel, solicitors or agents may attend the examination, and the witnesses shall be examined, cross-examined and re-examined in such order as the Judge, registrar, or commissioner may direct; and questions may be put to any witness by the Judge, registrar or commissioner, as the case may be.

Any person wilfully disobeying any order or subpoena requiring his attendance for the purpose of being examined or producing any document, or, on attending, refusing to answer any

proper question, shall be deemed guilty of contempt of Court and may be dealt with accordingly.

181. The evidence of every witness taken before the hearing shall be taken down in writing, and shall be certified as correct by the Judge, or registrar, or commissioner, or other person taking such evidence, as the case may be.

The evidence of any witness examined orally before the Judge at the hearing shall, if there be no shorthand writer appointed to take the evidence, be taken down in writing by the Judge or registrar, and a transcript of such evidence so taken, certified by the registrar, shall be admitted to prove the evidence of the witness on appeal.

182. The certified evidence taken before the hearing shall be lodged in the registry, or, if taken by commission, shall forthwith be transmitted by the commissioner to the registry, together with his commission.

A form of a return to a commission to examine witnesses will be found marked No. 82 in the Appendix hereto.

183. As soon as the certified evidence taken before the hearing has been received in the registry, it may be taken up and filed by either party, and may be used as evidence in the cause, saving all just exceptions.

184. Nothing in Rules 176 to 183 inclusive shall apply to examinations in preparatory or to evidence on the first hearing of a cause for condemnation.

185. Where any witness has to be examined by interpretation, such interpretation shall be made by a sworn interpreter of the Court, or by a person appointed by the Judge or by the commissioner or examiner taking the examination, after an oath has been administered to such interpreter or person in the form marked No. 85 in the Appendix hereto.

186. Where any ship papers or other documents have to be translated for use in a cause, such translation shall be made by the said interpreter, or by a person appointed for the purpose by the Court. The parties to any proceeding may agree, or if there is no party other than the captor, the captor may direct which and what parts (if any) of the ship papers and documents shall be translated.

#### *Admission of Documents and Facts.*

187. Any party may, for the purposes of any hearing of a cause other than the first hearing of a cause for condemnation, file a notice to any other party to admit any document or fact, saving all just exceptions, and a party not admitting it after such notice shall be liable for the costs of proving the document or fact; unless at the hearing the Judge shall certify that the refusal or omission to admit was reasonable.



Forms of notice to admit and of admissions will be found marked Nos. 86 (i. and ii.) and 87, respectively, in the Appendix hereto.

*Invocation of Documents.*

188. Where in two or more causes claims have been made by or on behalf of the same persons in the same Court, and the ship papers in such causes are on the file and in the control of the Court, the captor may, by leave of the Judge at the first hearing, invoke in any one of such causes the ship papers brought in and filed in any other of such causes, and may, by leave of the Judge, after an order for further proof, invoke any ship papers found on board any ship and any deposition made in any other cause by the claimant in the cause before the Court.

189. Save as aforesaid, every application to invoke ship papers, depositions, or other documents in proceedings for the condemnation of a ship shall be by motion and supported by affidavit; and no such application shall be granted unless the Judge is satisfied that such papers, depositions, or documents are material and necessary.

A form of notice of motion will be found marked No. 88 in the Appendix hereto.

190. Where leave is given to the captor to invoke ship papers or depositions, or other documents, the claimant shall be entitled to invoke, and to use and produce in evidence, any proofs from the same cause from which the captors have been permitted to invoke proofs, and, upon application, the Judge shall direct the papers, depositions, or documents so invoked to be used at the first hearing, or to be adduced on further proof.

*Affidavits.*

191. Every affidavit shall be intituled in the cause or matter in which it is sworn, and shall be divided into short paragraphs numbered consecutively, and shall be in the first person, and signed by the deponent.

192. The name, address, and description of every person making an affidavit shall be inserted therein.

Where an affidavit is made by two or more persons, the names of all such persons, and the dates when, and the places where, it is sworn, shall be inserted in the jurat.

A form of heading and jurat to an affidavit will be found marked No. 89 in the Appendix hereto.

193. When an affidavit is made by any person who is blind, or who, from his signature or otherwise, appears to be illiterate, the person before whom the affidavit is sworn shall certify that the affidavit was read over to the deponent, and

that the deponent appeared to understand the same, and made his mark or wrote his signature thereto in the presence of the person before whom the affidavit was sworn.

194. When an affidavit is made by a person who does not speak the English language, the affidavit shall be taken down and read over to the deponent by interpretation either of a sworn interpreter of the Court, or of a person previously sworn faithfully to interpret the affidavit.

195. Affidavits sworn within the jurisdiction shall be sworn before the Judge, registrar, commissioner, or officer empowered under these Rules to administer oaths.

196. Affidavits sworn out of the jurisdiction may be sworn before the following persons:—

- (1.) If sworn in the United Kingdom, or in any Possession, before any person authorised to administer oaths in the United Kingdom or in such Possession respectively.
- (2.) If sworn in any place not being a part of Her Majesty's dominions, before a British minister, consul, vice-consul, or notary public, or before a judge or magistrate, the signature of such notary public, judge or magistrate being authenticated by the official seal of the Court to which he is attached, or by the official seal of the Supreme Court of the country where the affidavit is sworn, or by the certificate of a British consul.

197. The reception of any affidavit as evidence may be objected to, if the affidavit has been sworn before the solicitor for the party on whose behalf it is offered, or before a partner or clerk of such solicitor.

198. Every affidavit shall, before being used as evidence, be filed in the registry.

#### *Oaths.*

199. The registrar, and any commissioner or other person directed or empowered to take the preparatory examination, deposition, or other examination of any witness or person may administer oaths for such purpose.

200. The Judge may appoint any person to administer oaths in prize proceedings.

Forms of appointment to administer oaths will be found marked No. 90 (i. and ii.) in the Appendix hereto.

Commissioners appointed to take the preparatory examination shall be deemed to be commissioners appointed to administer oaths.

201. If any person tendered for the purpose of giving evidence, whether orally or by affidavit, objects to take an oath or is not a Christian, or is objected to as incompetent to take an

oath, or is by reason of any defect of religious knowledge or belief incapable of comprehending the nature of an oath, the Judge or person authorised to administer the oath shall, if satisfied that the taking of an oath would have no binding effect on his conscience, permit him, in lieu of an oath, to make a declaration.

Oaths and declarations in lieu of oath shall be in the forms marked Nos. 91 and 92, respectively, in the Appendix hereto.

202. If any person to whom an oath is administered desires to swear with uplifted hand in form and manner in which an oath is usually administered in Scotland, he shall be permitted so to do, and the oath shall be administered to him in such form and without further question.

#### *Shorthand Writers.*

203. The Judge may order the evidence of any witness examined orally for the purposes of hearing other than the first hearing of a cause for condemnation, or a reference, whether examined before the Judge, registrar, or a commissioner, to be taken down by a shorthand writer appointed by the Court, who shall have been previously sworn faithfully to report the evidence; and a transcript of the shorthand writer's notes, certified by him to be correct shall be lodged in, or transmitted to, the registry, and shall be admitted to prove the oral evidence of the witness.

The oath to be administered to the shorthand writer shall be in the form marked No. 93 in the Appendix hereto.

#### *Printing.*

204. The Judge may order the whole of the pleadings (if any) and evidence, or any part thereof, to be printed before any hearing other than the first hearing of a cause for condemnation; and the printing shall be in such manner and form as the Judge shall order.

#### *Assessors.*

205. The Judge may, on the application of any party, or without such application if the Judge sees fit, call in the aid of one or more assessors, to advise the Court upon any matters requiring nautical or other professional knowledge.

The fees of the assessors shall be paid in the first instance by the party instituting the particular proceeding in which they are summoned.

#### *Setting Down for Hearing.*

206. After the return of the monition in a cause instituted for condemnation, the Judge shall have power, on the application of any party, to appoint that the first hearing of the cause

shall take place on any day and within any time which the Judge shall think fit; and thereon to make such order as to the bringing in of claims and the time thereof, as to dispensing with evidence or doing any other act, or taking any proceeding in the cause, and upon such terms (if any), as the nature of the case may require.

207. Where there has been an order for further proof in a cause for condemnation, or for further evidence in prize salvage, either party may set the cause down for hearing—

- (1.) Where the cause is heard without pleadings, after the expiration of 14 days from the date of the order for further proof, or for further evidence;
- (2.) Where pleadings have been ordered, within one week after the last pleading has been filed, or, when the time allowed to the adverse party for filing any pleading has expired without such pleading having been filed, within one week from the expiration of such time.

208. A cause set down by a party shall be set down for any hearing (other than the first hearing aforesaid) whether with or without pleadings, by filing a notice of hearing.

A form of notice of hearing will be found marked No. 94 in the Appendix hereto.

209. In all cases, other than the first hearing of a cause for condemnation (provided for in Rule 206), causes may be set down for hearing on such day or days, and within such time, as the Judge shall on the application of any party appoint; and thereon the Judge shall have power to dispense with the giving of notice of hearing, or to abridge the time appointed by these Rules for giving such notice, for the delivery of pleadings, or for doing any other act or taking any other proceeding in the cause upon such terms, if any, as the nature of the case may require.

### *Hearing.*

210. After the cause has been set down for hearing, the registrar shall send notice to the parties of the day on which it will be heard.

211. At the first hearing of a cause for condemnation the captor shall, in general, begin. At any hearing on further proof the claimant shall begin, unless the Judge shall otherwise direct. If there are several claimants, the Judge may direct which of them shall begin. At the hearing of claims on joint capture the persons claiming to be joint captors shall begin. In claims for prize salvage the salvors shall begin, unless the Judge on the hearing shall otherwise direct.

*References.*

212. The Judge may, if he thinks fit, refer the assessment of damages and the taking of any account to the registrar either alone, or assisted by one or more merchants as assessors.

213. The claim for damages or the accounts referred, and any affidavit and documentary evidence in support thereof or in opposition thereto, shall be filed within such time as the Judge shall direct; and the reference shall be heard on such day as the registrar shall appoint, upon such affidavits and documentary evidence, and upon the evidence of any witnesses who may be produced at the reference; but, subject thereto, the rules as to evidence and as to the hearing of a cause shall apply *mutatis mutandis*, and the registrar may adjourn the proceedings from time to time and from place to place if he shall think necessary.

214. Counsel may attend the hearing of any reference, but the costs so incurred shall not be allowed on taxation, unless the registrar shall certify that the attendance of counsel was necessary or proper.

215. When a reference has been heard the registrar shall draw up a report in writing of the result, showing the amount (if any) found due, and to whom, together with any further particulars that may be necessary. The registrar may, if he thinks fit, report whether any and what part of the costs of the reference should be allowed, and to whom.

A form of report will be found marked No. 95 in the Appendix hereto.

216. When the report is ready, notice shall be sent to the parties, and any party may thereupon take up and file the report.

217. Within two weeks from the filing of the registrar's report, any party may file a notice of motion to vary the report, specifying the items objected to.

218. At the hearing of the motion the Judge may make such order thereon as to him shall seem fit, or may remit the matter to the registrar for further inquiry or report.

219. If no notice of motion to vary the report is filed within two weeks from the filing of the registrar's report, the report shall stand confirmed without further order.

220. Upon notice of motion to vary a report being filed, the Judge may upon the application of any party direct the objection to be heard on pleadings, and such pleadings shall be by way of petition and answer.

Forms of notice of motion and of pleading will be found marked Nos. 96 and 39 (iv.), respectively, in the Appendix hereto.

*Costs, and Security for Costs.*

221. The costs of and incident to all prize proceedings shall be in the discretion of the Judge :

Provided, that a captor shall not be condemned in costs, unless the capture was made without probable cause, or the captors have been guilty of misconduct in relation to the ship or goods captured, or in relation to any person or thing on board of, or belonging to, the captured ship.

222. Any person instituting a proceeding other than a cause for condemnation, and being ordinarily resident out of the jurisdiction of the Court, may be ordered to give security for costs, though he may be temporarily resident within the jurisdiction, and the proceedings may be stayed until such security is given.

223. Security for costs may be given by bail bond, or in such other manner as the Judge shall direct.

*Taxation of Costs.*

224. A party desiring to have a bill of costs taxed, shall file the bill, and, as soon as conveniently may be, the registrar shall send to the parties notice of the time at which the taxation will take place.

At the time appointed, if either party is present, the taxation shall be proceeded with.

225. Within one week from the completion of the taxation application may be made to the Judge to review the taxation.

226. Costs may be taxed either by the Judge or by the registrar, and as well between solicitor and client as between party and client.

If in a taxation between solicitor and client more than one-sixth of the bill is struck off, the solicitor shall pay all the costs attending the taxation, unless the Judge shall otherwise order.

*Discontinuance.*

227. Prize proceedings may be discontinued by leave of the Judge, on motion in court, and not otherwise ; but no order for discontinuance shall be made or taken to prejudice the right (if any) of a claimant to costs and damages.

*Consent.*

228. Any consent in writing signed by the parties may, by permission of the Judge, be filed, and shall thereupon become an order of Court.

*Appeals.*

229. A party desiring to appeal shall, within one month from the date of the decree or order appealed from, file a notice of appeal, and give bail or other security in such sum, not exceeding 300%, as the Judge may order, to answer the costs of the appeal.

A form of notice of appeal will be found marked No. 97 in the Appendix hereto.

230. Notwithstanding the filing of the notice of appeal, the Judge may, at any time before proceedings are stayed by process of the appellate court, proceed to carry the decree or order appealed from into effect: Provided, that the party in whose favour it has been made gives bail or other security to abide the event of the appeal, and to answer the costs thereof, in such sum as the Judge may order.

231. An appellant desiring to prosecute his appeal shall cause the registrar to be served with an inhibition and citation, and a monition for process, or shall take such other steps as may be required by the practice of the appellate court.

232. On service of the inhibition and citation, or other process of the appellate court directing a stay, all proceedings in the cause will be stayed.

233. On service of the monition for process, the registrar shall forthwith prepare the process at the expense of the party ordering the same.

The process, which shall consist of a copy of all the evidence and proceedings in the cause, shall be signed by the registrar and sealed with the seal of the Court, and shall be transmitted by the registrar to the registrar of the appellate court.

234. Where any cause or matter is, after hearing on appeal, remitted by the appellate court to the Court, such cause or matter shall proceed in the Court as if the judgment or order given or made by the appellate court had been given or made by the Court.

*Payments into Court.*

235. All funds and moneys to be paid into Court in prize matters, and all securities to be placed to the credit of any such matters, shall be transferred, paid, or placed (as the case may be), upon receivable orders to be obtained in the registry, into the hands of an official accountant to be appointed under the 29th section of the Naval Prize Act, 1864, and shall by him be placed to the credit of "Prize Moneys" and of the particular ship in respect of which the same shall be transferred, paid, or placed (as the case may be), in a bank in the Possession to be

named by the Judge, subject to the approval of the Commissioners of Her Majesty's Treasury or the Lords of the Admiralty, or if no such bank is so named and approved, in the Treasury or Treasury chest of the Possession.

All proceeds, funds, and moneys ordered to be paid under the said 29th section shall be paid into Court as above provided, and all proceeds, funds, moneys, and securities transferred, paid, or placed, as aforesaid, shall be held and disposed of as ordered by the Court, or by the Appellate Court on appeal. A form of receivable order will be found marked No. 98 in the Appendix hereto.

236. A bank receipt or a receipt by the officer in charge of the Treasury or Treasury chest for the amount shall be filed, and thereupon the payment into Court shall be deemed to be complete.

*Payments out of Court.*

237. No funds or moneys shall be paid, or securities transferred out of Court except upon an order signed by the Judge. On signing a receipt to be prepared in the registry, the party to whom the funds or moneys are payable, or securities transferable under the said order, will receive an order, signed by the registrar, upon the official accountant, directing him to pay or transfer as ordered by the Court. Forms of order for payment or transfer out of Court, and of order upon the official accountant, will be found marked No. 99 (i. and ii.) in the Appendix hereto.

*Subpœnas.*

238. Any party desiring to compel the attendance of a witness for the purpose of either giving evidence or of producing any document may serve him with a subpœna, which shall be prepared by the party and issued under the seal of the Court.

Forms of subpœna will be found marked No. 100 in the Appendix hereto.

239. A subpœna may contain the names of any number of witnesses, or may be issued with the names of the witnesses in blank.

240. Service of the subpœna must be personal, and may be made by the party or his agent, and shall be proved by affidavit.

Refusal or neglect to attend on subpœna issued as aforesaid, or to give evidence on attendance thereunder, shall be deemed to be disobedience to an order of Court.

*Orders for Payment.*

241. On application by a party to whom any sum has been found due, the Judge may order payment to be made out of any money in Court applicable for the purpose.



If there is no such money in Court, or if it is insufficient, the Judge may order that the party liable shall pay the sum found due, or the balance thereof, within such time as to the Judge shall seem fit, and such order may be enforced by a monition against the party liable to pay.

Forms of order for payment and of monition will be found marked Nos. 101 and 103, respectively, in the Appendix hereto.

#### *Attachments.*

242. If any person disobeys a decree or an order of the Court, or otherwise commits a contempt of Court, the Judge may order him to be attached; and, upon his being brought before the Court, may order him to be committed to prison, or punished by fine or otherwise, as he may think fit.

A form of attachment will be found marked No. 104 in the Appendix hereto.

243. Attachments and orders for committal shall be executed by the marshal.

Forms of order for committal and of committal will be found marked Nos. 105 and 106, respectively, in the Appendix hereto.

#### *Enforcement and Execution of Decrees and Orders.*

244. Where the Court condemns property as prize the decree of condemnation may be enforced :—

- (1.) If the property is still under arrest, by sale of such property.
- (2.) If the property has been sold before condemnation and the proceeds have not already been paid into Court, by order or monition to the persons holding the same to pay the same into Court.
- (3.) In respect of freight found due for the carriage of goods in a ship condemned as prize, by arrest of the goods so carried until payment into Court of such freight or by monition against the owner of the goods, or other persons holding, or responsible for, such freight, to pay the same into Court.
- (4.) So far as a decree deals with costs and expenses (other than costs and expenses ordered to be paid out of proceeds), by monition against the parties ordered to pay the same or their bail.
- (5.) If the property has been released on bail before condemnation, by monition against the bail.

245. Where the Court decrees property taken or seized as prize to be restored to the owner thereof, or property arrested in prize salvage to be released, the decree shall be carried out by means of a release as prescribed in Rules 140 to 146 inclusive : Provided, that the Court may order such release upon such terms as to the

payment of costs and expenses and freight (if any is due), or otherwise, as to the Court may seem just, and if such terms are not complied with or such payments are not made within a time to be named in the order, may direct the appraisement and sale of such property and the payment into Court of the proceeds of sale, and the payment thereof of such costs and expenses or freight.

246. Where in a decree restoring a ship it is pronounced that freight is due in respect of cargo carried therein and payment of such freight is ordered, the decree may be enforced as regards the payment of freight against the cargo or the owners thereof:—

- (1.) If the cargo has been condemned, by payment out of the proceeds of the sale of such cargo.
- (2.) If the cargo has been unladen and sold before adjudication and the proceeds of the sale are still in Court, by payment out of the proceeds of sale.
- (3.) If the cargo has been unladen, but still remains under the arrest of the Court, by sale of such cargo and payment out of the proceeds of sale.
- (4.) If the cargo has been unladen and has been restored to the owner on bail, by monition against the bail to pay the freight into Court.
- (5.) If the cargo has been unladen and has been restored to the owner without bail, by monition against the owner or person to whom the same has been restored, or against any person having received or being in possession of such cargo or freight, to pay such freight into Court.

247. Any decree or order other than a decree of condemnation or restitution and not expressly provided for by the Naval Prize Act, 1864, or by these Rules, may be enforced by monition against the parties against whom such decree or order is made, or may be enforced in the same manner as a judgment, decree, or order of the Supreme Court of the Possession in the exercise of its ordinary jurisdiction may be enforced.

248. Forms of monition required by Rules 244 to 247 inclusive will be found marked Nos. 60 and 103 in the Appendix hereto.

*Instruments and other Documents, and the Service thereof.*

249. Every warrant, monition, release, commission, attachment, and other instrument to be executed by any officer of, or commissioner acting under the authority of, the Court, shall be prepared in the registry and signed by the registrar, and shall be issued under the seal of the Court upon the filing of a præcipe.

A form of præcipe will be found in the Appendix hereto, preceding, in each case, the form of instrument to which it relates.

A general form of præcipe will be found marked No. 107 in the Appendix hereto.

250. Every document issued under the seal of the Court shall bear date on the day of sealing, and shall be deemed to be issued at the time of the sealing thereof.

251. Every document requiring to be served shall be served within six months from the date thereof, otherwise the service shall not be valid.

252. Every instrument to be executed by the marshal shall be left with the marshal by the party at whose instance it is issued with written instructions for the execution thereof.

253. Except in the case of an order for attachment, it shall not be necessary to the regular service of an order that the original order be shown if an office copy be exhibited.

254. All notices, pleadings, summonses, orders, and other documents, proceedings, and written communications in respect of which personal service is not required shall be sufficiently delivered or served if left within the prescribed hours at the address for service of the person to be served with any person resident at or belonging to such place. The prescribed hours shall be such as are appointed by the Court by general order affixed in some prominent place in the court house or registry.

255. Where no appearance has been entered for a party, or where a party has omitted to give an address for service, all notices, pleadings, summonses, orders and other documents, proceedings, and written communications in respect of which personal service is not required may be served by filing them in the registry.

256. All monitions (except as in these Rules otherwise provided) and all orders, disobedience to which would render a party liable to attachment, shall be served personally, except as herein-after provided.

257. Where personal service of any monition, notice, pleading summons, order or other document, proceeding, or written communication is required by these Rules or otherwise, the service shall be effected by showing it to the party to be served and by leaving with him a copy thereof.

258. Where personal service of any monition, notice, pleading, summons, order or other document, proceeding, or written communication, is required by these Rules or otherwise, and it is made to appear to the Judge that the person to be served is under disability or that prompt personal service cannot be effected, the Judge may order upon whom, or in what manner, substituted or other service is to be made, or may order notice by letter, advertisement or otherwise to be given in lieu of service.

259. The service of every warrant, monition, or other instrument by the marshal shall be verified by his certificate.

Forms of certificate of service will be found marked Nos. 108 and 109 in the Appendix hereto.

The service of every instrument, notice, pleading, summons, order, or other document, by a party, his clerk or agent, shall be verified by an affidavit.

Affidavits of service shall state when, where, and how and by whom such service was effected.

A form of affidavit of service will be found marked No. 110 in the Appendix hereto.

#### *Notices from the Registry.*

260. Any notice from the registry may be either left at, or sent by post to, the address for service of the party to whom notice is to be given; and the time at which the notice if posted would be delivered in the ordinary course shall be considered the time of service thereof.

#### *Filing.*

261. Documents shall be filed by leaving the same in the registry, with a minute stating the nature of the document, and the date of filing it.

Provided that affidavits as to ship papers, sworn as provided by Rule 13, shall be deemed to be filed upon the same being delivered to an actuary with the minute for transmission to the registry.

A form of minute on filing documents will be found marked No. 111 in the Appendix hereto.

262. Any number of documents in the same cause may be filed with one and the same minute.

263. Before any document, except affidavits as to ship papers, bail bonds, documents issued from the registry, præcipes and minutes, is filed, a copy thereof shall be delivered to or served on the adverse party (if any), and no document, except as aforesaid, shall be filed without a certificate endorsed thereon, signed by the party filing the same, that a copy thereof has been so delivered or served upon such adverse party (if any).

A form of certificate of service will be found marked No. 112 in the Appendix hereto.

#### *Præcipes.*

264. Any person requiring any document, instrument, order, or decree to be issued out of the registry shall file in the registry a præcipe specifying the nature of the document, instrument, order, or decree he requires, and the names of the parties against or in respect of whom the same is to be issued.

Forms of præcipe will be found marked Nos. 107, 2, 14, 19, 27, 31, 61, 63, 69, and 102 in the Appendix hereto.

*Time.*

265. If the time for doing any act or taking any proceeding in a cause expires on a Sunday, or on any other day in the week on which the registry is closed, and by reason thereof such act or proceeding cannot be done or taken on that day, it may be done or taken on the next day on which the registry is open.

266. Where, by these Rules or by an order made under them, any act or proceeding is ordered or allowed to be done within or after the expiration of a time limited from or after any date or event, such time, if not limited by hours, shall not include the day of such date or of the happening of such event, but shall commence on the next following day.

267. The Judge may, on the application of either party, enlarge or abridge the time prescribed by these Rules or forms, or by any order made under them, for doing any act or taking any proceeding, upon such terms as to him shall seem fit, and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time prescribed:

Provided, that nothing in this Rule shall be deemed to give power to abridge the time for the return of a monition issued under Rule 18, or to enable any proceeding to be taken prior to such return, save as by the Rules herein-before prescribed.

*Sittings of the Court.*

268. The Judge shall appoint proper and convenient times for sittings in court and chambers, and may adjourn the proceedings from time to time, and from place to place, as to him shall seem fit.

*Registry.*

269. The registry shall be open to suitors during fixed hours to be appointed by the Judge.

270. The registrar shall obey all lawful directions of the Judge. He shall attend all sittings whether in court or in chambers, and shall take minutes of all the proceedings. He shall have the custody of all records of the Court. He shall collect for the Judge's use the fees (if any) payable to him.

*Marshal.*

271. The marshal shall execute by himself or his substitute all instruments issued from the Court which are addressed to him, and shall make returns thereof.

272. Whenever, by reason of distance or other sufficient cause, the marshal cannot conveniently execute any instrument in person, he shall employ some competent person as his substitute to execute the same.

### *Holidays.*

273. The registry and the marshal's office shall be open on every day in the year for the transaction of prize matters, except Sundays, Good Friday, Easter Monday, Easter Tuesday, and Christmas Day, and such days as are appointed by law or by the Governor of the Possession to be kept as holidays or fast days: Provided, that during the continuance of war the registrar shall make arrangements for the issue of process in all urgent cases on such days as the offices may be closed.

### *Records of the Court.*

274. There shall be kept in the registry a book to be called the minute book, in which the registrar shall enter in order of date under the head of each cause, and on a page numbered with the number of the cause, a record of the institution of the cause, of all appearances entered, of all documents issued or filed, of all acts done, and in which he shall in the like order enter in full all orders and decrees of the Court, whether made by the Judge, or by the registrar, or by consent of the parties in the cause.

All orders and decrees of the Court shall be signed in the minute book by the registrar, and a copy of any such order or decree certified by the registrar as correct, and signed by him, shall be deemed to be a true copy of such order or decree for all purposes.

Forms of minutes of Order of Court, of minutes of examination of witnesses, of minutes of decree, and of minutes in a prize cause, will be found marked Nos. 113, 114, 115 (i.-xxvi.), and 116, respectively, in the Appendix hereto.

275. There shall be kept in the registry a caveat warrant book, a caveat release book, and a caveat payment book, in which all such caveats respectively and the withdrawal thereof shall be entered by the registrar.

276. Any solicitor may, free of charge, inspect the minute and caveat books; and the parties to a cause may, while the cause is pending, and for one year after its termination, inspect, free of charge, all the records in the cause; but, except as aforesaid, no person shall be entitled to inspect the records in a pending cause without the permission of the registrar.

277. In a cause which is terminated, any person may, on payment of a search fee, inspect the records in the cause.

*Copies.*

278. Any person entitled to inspect any document in a cause shall, on payment of the proper charges for the same, be entitled to an office copy thereof under seal of the Court.

*Certificates of Sale, Condemnation, and Restitution.*

279. Where property taken or seized as prize is sold by order or decree of the Court, any person to whom such property is sold may, within one month from the date of the sale or condemnation of the property, whichever last happens, and after notice to the proper officer of the Crown, apply to the Judge for an order directing the issue of a certificate of condemnation and sale, or of sale only; and upon such application the Judge shall, unless good cause is shown to the contrary, direct a certificate to be issued, and the same shall be issued in one of the forms marked Nos. 117, 118, 119, and 120 in the Appendix hereto, sealed with the seal of the Court, and signed by the registrar.

280. Where such certificate is issued in respect of a ship, the applicant shall be entitled to have the certificate endorsed on the bill of sale by which the ship is sold to him, on production of the bill of sale to the registrar.

Where such certificate is issued in respect of goods or cargo, the applicant shall be entitled to have the certificate endorsed on the contract or sold note (if any) under which such goods or cargo were sold to him on production of such contract or sold note to the registrar.

281. Where the property taken or seized as prize is restored to the owner thereof by order or decree of the Court, the owner may within one month from the date of the order or decree, and after notice to the proper officer of the Crown, apply to the Judge for an order directing the issue of a certificate of restitution, and the Judge shall, unless good cause is shown to the contrary, direct a certificate to be issued in one of the forms marked Nos. 121 and 122 in the Appendix hereto, sealed with the seal of the Court, and signed by the registrar.

*Forms.*

282. The forms in the Appendix to these Rules shall be followed with such variation as the circumstances may require, and any person using any other forms shall be liable for any costs occasioned thereby:

Provided, that where by these Rules it is directed that any instrument or document shall be in a prescribed form, such form shall be obligatory.

*Fees.*

283. Subject to the following Rules, the fees set forth in the table of fees in the Appendix hereto shall be allowed on taxation.

284. Where the fee is per folio, the folio shall be counted at the rate of 72 words, and every numeral, whether contained in columns or otherwise written, shall be counted and charged for as one word.

285. The Judge may in any cause order that half fees only shall be allowed.

286. If the same practitioner acts as both counsel and solicitor in a cause, he shall not for any proceeding be allowed to receive fees in both capacities, nor to receive a fee as counsel where the act of a solicitor only is necessary.

287. No document shall be filed, no process issued, no decree or order made, or act done, by the Court or registrar, until the fees due and payable in respect of such filing, issue, decree, order, or act respectively, shall have been paid into the registry, unless it is otherwise ordered by the Judge.

*Cases not provided for.*

288. In all cases not provided for by these Rules, the practice of the Admiralty Division of the High Court of Justice of England in prize proceedings shall be followed.

*Commencement of Rules.*

289. These Rules shall come into operation on the first day of July 1898, and shall apply to all causes commenced on or after that date; and all causes (if any) commenced before that date shall be continued under these Rules.

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## APPENDIX.

### I.—FORMS. II.—TABLES OF FEES.

## CONTENTS

### I.—FORMS.

Subject.	No. of Form.
Title of Cause <i>in rem</i> - - - - -	1
Title of Cause <i>in personam</i> - - - - -	1
Præcipe for Monition for Condemnation - - - - -	2
Monition for Condemnation - - - - -	3
Certificate of Service of Monition for Condemnation - - - - -	4
Affidavits as to Ship Papers - - - - -	5
(i.) Ordinary Affidavit - - - - -	5
(ii.) Where Ship Papers lost or mislaid - - - - -	5
(iii.) Where Ship Papers injured or altered - - - - -	5
(iv.) Where Ship Papers found concealed - - - - -	5
(v.) Where no Ship Papers found - - - - -	5
(vi.) By Person having control of Ship Papers within the jurisdiction - - - - -	5
Appearance to Monition for Condemnation - - - - -	6
(i.) By Party in Person - - - - -	6
(ii.) By Solicitor for Party - - - - -	6
Claims in Causes for Condemnation - - - - -	7
(i.) By Master - - - - -	7
(ii.) By Agent - - - - -	7
(iii.) By Managing Owner - - - - -	7
(iv.) By Master and Sole Owner - - - - -	7
(v.) By Authority of Neutral Government - - - - -	7
(vi.) For Droit of Admiralty on Seizure in Port - - - - -	7
(vii.) For Droit of Admiralty on Capture by Non-commissioned Ship. - - - - -	7
Affidavits verifying Claims - - - - -	8
(i.) By Master - - - - -	8
(ii.) By Agent - - - - -	8
(iii.) By Managing Owner of Ship - - - - -	8
(iv.) By Owners of Cargo - - - - -	8
(v.) By Agent of Neutral Government - - - - -	8
(vi.) Authority from Ambassador or Diplomatic Agent - - - - -	8
(vii.) By Admiralty Proctor or other Agent of Admiralty - - - - -	8
Standing Interrogatories - - - - -	9
Commission for Examination of Witnesses on Standing Interrogatories - - - - -	10
Certificate to Answers to Standing Interrogatories - - - - -	11
Heading to Depositions on Standing Interrogatories - - - - -	12
Return to Depositions on Standing Interrogatories - - - - -	13

Subject.	No. of Form.
Præcipe for Monition to Proceed	14
Monition to Proceed	15
Certificate of Service of Monition to Proceed	16
Appearance to Monition to Proceed	17
(i.) By Party in person	17
(ii.) By Solicitor	17
Affidavit on further Proof	18
Præcipe on instituting proceedings in Prize Salvage	19
Warrant of Arrest in Prize Salvage	20
Monition in Prize Salvage	21
Affidavit to lead Warrant in Prize Salvage	22
(i.) By Captors	22
(ii.) By Ship's Crew	22
Affidavit to lead Monition in Prize Salvage	23
Appearance in Prize Salvage	24
(i.) By Owner or Party interested	24
(ii.) By Solicitor	24
Affidavit of Value in cause of Prize Salvage	25
Agreement of Values in cause of Prize Salvage	26
Præcipe instituting cause of Joint Capture or Recapture	27
Appearance in Joint Capture	28
Monition to show cause in Joint Capture and Recapture	29
Admission in Joint Capture and Recapture	30
Præcipe for Monition in Prize Bounty	31
Monition in Prize Bounty	32
Summons for Particulars where Misconduct of Captors alleged	33
Order for Particulars where Misconduct of Captors alleged	34
Particulars of Offences against Law of Prize	35
Notice of Motion in Pre-emption	36
Affidavit in Case of Pre-emption	37
Order for Appraisement and Sale in Pre-emption	38
Pleadings	39
(i.) In Proceedings for Condemnation	39
(ii.) In Prize Salvage	39
(iii.) In Joint Capture or Recapture	39
(iv.) In Objection to Registrar's Report	39
Affidavit of Discovery	40
Notice to Produce for Inspection and Transcription	41
Order to Produce for Inspection and Transcription	42
Notice to Produce	43
Order to Marshal for Survey	44
Order to Marshal for Removal	45
Order to Marshal for Appraisement	46
Order to Marshal for Sale	47
Order to Marshal for Appraisement and Sale	48
Order to Marshal for Unlading and Warehousing	49
Bill of Sale by Marshal	50
(i.) Of Foreign Ship	50
(ii.) Of British Ship	50
Summons for Review of Registrar's Taxation of Marshal's Account	51
Summons for Inspection of Property	52
Order for Inspection of Property	53
Notice of Motion for Delivery on Bail	54
Order for Delivery on Bail	55
Affidavit by Claimant to lead Warrant of Arrest	56
Affidavit by Captor to lead Warrant of Arrest	57
Affidavit to lead Warrant to enforce Decree in Prize Salvage	58
Warrant for Arrest	59
Monition to pay Freight or Proceeds into Court	60
Præcipe for Bail Bond	61
Bail Bond	62
Præcipe for Commission to take Bail	63

Subject.	No. of Form.
Commission to take Bail -	64
Notice of Bail -	65
Notice to Justify -	66
Affidavit of Justification -	67
Notice of Objection to Bail -	68
Præcipe for Release -	69
Releases -	70
(i.) On Restitution -	70
(ii.) From Arrest -	70
Notice for Caveat Warrant -	71
Caveat Warrant -	72
Notice for Caveat Release -	73
Caveat Release -	74
Notice for Caveat Payment -	75
Caveat Payment -	76
Notice of Withdrawal of Caveat -	77
Notice of Motion -	78
Summons -	79
Order for Examination of Witnesses -	80
Commission to examine Witnesses -	81
Return to Commission to examine Witnesses -	82
Order for Issue of Request -	83
Request -	84
Oath of Interpreter -	85
Notice to admit -	86
(i.) Documents -	86
(ii.) Facts -	86
Admission of Facts -	87
Notice of Motion to invoke Ship Papers -	88
Heading and Jurat to Affidavit -	89
Appointment to administer Oaths -	90
(i.) Generally -	90
(ii.) In any particular proceeding -	90
Oaths -	91
(i.) To be administered to Witness -	91
(ii.) To be administered to Deponent -	91
Declarations in lieu of Oaths -	92
(i.) By Witness -	92
(ii.) By Deponent -	92
Oath to be administered to Shorthand Writer -	93
Notice for Hearing -	94
Registrar's Report -	95
Notice of Motion to vary Registrar's Report -	96
Notice of Appeal -	97
Receiveable Order -	98
Orders for Payment out of Court -	99
(i.) By the Judge -	99
(ii.) Upon the Official Accountant -	99
Subpoena -	100
Order for Payment -	101
Præcipe for Monition to Pay -	102
Monition to Pay -	103
Attachment -	104
Order for Committal -	105
Committal -	106
Præcipe -	107
Certificate of Service of Warrant -	108
Certificate of Service by Marshal of Document other than Warrant -	109
Affidavit of Service -	110
Minute on Filing -	111
Certificate of Service -	112
Minute of Order of Court -	113

Subject.	No. of Form.
Minute of Examination of Witness - - - - -	114
Minutes of Decrees - - - - -	115
(i.) On Condemnation; where Claim made - - - - -	115
(ii.) On Condemnation by Default - - - - -	115
(iii.) On Condemnation of a Ship of War - - - - -	115
(iv.) On Restoration - - - - -	115
(v.) Condemning Ship and Restoring Cargo - - - - -	115
(vi.) Restoring Ship and Condemning Cargo - - - - -	115
(vii.) Condemnation as Droit of Admiralty - - - - -	115
(viii.) Order for further Proof - - - - -	115
(ix.) Pronouncing further Proof insufficient and condemning - - - - -	115
(x.) Pronouncing further Proof sufficient and restoring - - - - -	115
(xi.) In Prize Salvage; where Ship brought in and under Arrest - - - - -	115
(xii.) In Prize Salvage; where Value sworn or agreed - - - - -	115
(xiii.) In Prize Salvage; where Ship restored but Cargo condemned. - - - - -	115
(xiv.) In Prize Salvage; where Ship is brought in and released on Bail. - - - - -	115
(xv.) In Prize Salvage; where Ship has been allowed to prosecute her Voyage. - - - - -	115
(xvi.) In Joint Capture; on Condemnation, pronouncing for or against title to share. - - - - -	115
(xvii.) In Joint Capture; on Condemnation, reserving question by whom taken. - - - - -	115
(xviii.) In Joint Capture; subsequent to Condemnation, pronouncing for or against title to share. - - - - -	115
(xix.) In Joint Capture; before or subsequent to Condemnation, admitting or dismissing petition. - - - - -	115
(xx.) In Joint Recapture; pronouncing for joint title - - - - -	115
(xxi.) In Joint Recapture; reserving question to whom due - - - - -	115
(xxii.) Rejecting Claim of alleged Joint Recapture - - - - -	115
(xxiii.) In Prize Bounty; for title - - - - -	115
(xxiv.) In Prize Bounty; on Claim to share as Joint Captors before title declared. - - - - -	115
(xxv.) In Prize Bounty; on Claim to share after Decree for Prize Bounty made. - - - - -	115
(xxvi.) In Prize Bounty; reserving question to whom the Bounty due. - - - - -	115
(xxvii.) Order for Sale - - - - -	115
Minutes in a Cause for Condemnation - - - - -	116
(i.) On Condemnation or Restitution where Claims made - - - - -	116
(ii.) By Default; as Droit of Admiralty - - - - -	116
Certificate of Condemnation and Sale of Ship - - - - -	117
Certificate of Sale of Ship - - - - -	118
Certificate of Condemnation and Sale of Goods or Cargo - - - - -	119
Certificate of Sale of Goods or Cargo - - - - -	120
Certificate of Restitution of Ship - - - - -	121
Certificate of Restitution of Goods or Cargo - - - - -	122

## II.—TABLES OF FEES.

# **RULES AND TABLES OF FEES.**

## **CONTENTS.**

### **RULES.**

Subject.	Rules.
Interpretation	1
Institution of Causes	2-6
Arrest of Prize	7-10
Affidavits as to Ship Papers	11-17
Issue and Service of Monition for Condemnation	18-21
Appearance to Monition for Condemnation	22-24
Claims on behalf of Owners, &c.	25-26
Preparatory Examinations	27-39
Monition to Captors to proceed	40-49
First Hearing	50-51
Further Proof	52-57
Prize Salvage	58-73
Land Expeditions and Conjunct Capture with Ally	74
Joint Capture	75-89
Prize Bounty	90-91
Offences against Law of Prize	92
Pre-emption	93-95
Pleadings	96-101
Discovery, Inspection and Production of Documents	102-107
Custody of Prize and Appraisement and Sale	108-120
Delivery on bail	121-122
Warrants	123-128
Bail	129-139
Release	140-146
Caveats	147-157
Motions, Summonses, and other Applications	158-172
Evidence	173-186
Admission of Documents and Facts	187
Invocation of Documents	188-190
Affidavits	191-198
Oaths	199-202
Shorthand Writers	203
Printing	204
Assessors	205
Setting down for Hearing	206-209
Hearing	210-211
References	212-220
Costs, and Security for Costs	221-223
Taxation of Costs	224-226
Discontinuance	227
Consent	228
Appeals	229-234
Payments into Court	235-236
Payments out of Court	237
Subpœnas	238-240
Orders for Payment	241
Attachments	242-243
Enforcement and Execution of Decrees and Orders	244-248
Instruments and other Documents, and the Service thereof	249-259
Notices from the Registry	260
Filing	261-263
Præcipes	264
Time	265-267

Subject.	Rules.
Sittings of the Court	268
Registry	269-270
Marshal	271-272
Holidays	273
Records of the Court	274-277
Copies	278
Certificates of Sale, Condemnation and Restitution	279-281
Forms	282
Fees	283-287
Cases not provided for	288
Commencement of Rules	289

## APPENDIX.

I.—FORMS (preceded by Table of Contents).

II.—TABLES OF FEES.

**I.—FORMS.**

No. 1.

Rule 6.**TITLES OF CAUSES.**(i.) *In Rem.*

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

*(If the cause is instituted against a ship only, or against a  
ship and cargo, or against a ship, cargo, and freight, the  
title should be the name of the ship only and the name of  
her master :)*

The , master ;

*(or, if the cause is instituted against cargo only :)*

Cargo ex , master ;

*(or, if the cause is instituted against goods other than cargo :)*

Goods taken at ;

*(or, if the cause is instituted against the proceeds realised  
by the sale of ship or cargo or goods :)*

The proceeds of the ship , master.

(or)

The proceeds of the cargo ex , master.

(or)

The proceeds of the goods taken at

(ii.) *In Personam.*

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

Between A.B., petitioner,  
and

C.D. and D.E., the owners of the ship

, master.

or

C.D. and D.E., the owners of the cargo ex  
ship , master.

## No. 2.

PRÆCIPLE FOR MONITION TO SHOW CAUSE WHY SHIP AND  
GOODS SHOULD NOT BE CONDEMNED. Rules 18  
and 264.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

I, J.K., solicitor, agent for Her Majesty's Procurator General,  
on behalf of Her Majesty (*if against a droit of Admiralty*, in  
Her office of Admiralty), pray a monition citing all persons having  
or claiming an interest in the said ship , and the  
goods, wares, and merchandise laden on board of her, taken  
by Her Majesty's ship , commander (or seized  
by the officers of customs at the port of ), to  
appear and show cause why the same should not be condemned  
as prize. And I consent that all instruments and documents  
having to be served on the Crown or the captors as parties to  
this cause may be left for me at (*give an address as required  
by Rule 5*).

Dated this day of

(Signed) J.K.

## No. 3.

MONITION TO SHOW CAUSE WHY SHIP AND GOODS SHOULD NOT  
BE CONDEMNED. Rule 3.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

(L.S.)

Victoria, by the grace of God of the United Kingdom of  
Great Britain and Ireland Queen, Defender of the Faith,  
Empress of India.

To the marshal of Our Court of and to all  
and singular his substitutes, greeting :

Whereas the ship , master, and  
the goods, wares, and merchandise laden therein have been



seized and taken as prize by Our ship of war commander (or by Our officers of Customs at the port of , as the case may be), and taken to , and a cause has been instituted on Our behalf by Our Procurator General (if the proceeding is against a droit of Admiralty, add, in Our office of Admiralty) against the said ship, her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, for the condemnation thereof as prize.

We therefore command you that by affixing these presents upon , and by leaving affixed a true copy thereof, you monish and cite all persons who have or claim to have any right, title, or interest in the said ship, her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, to enter an appearance in the registry of Our said Court within 20 days after the service of these presents, and thereon to show cause why the said ship, her tackle, apparel, and furniture, and the said goods, wares, and merchandise, should not be pronounced to have belonged at the time of the capture and seizure thereof to Our enemies, and as such, or otherwise, liable to confiscation, and to be condemned as good and lawful prize (if claimed as droit of Admiralty, add, and as droits and perquisites of Us in Our office of Admiralty).

We further command you to warn by the means aforesaid all the said persons that if they do not enter an appearance as aforesaid, the Judge of Our said Court will proceed to adjudication on the said capture, and make such order therein as to him shall seem right.

Given at in Our said Court under the seal  
thereof, this day of

Monition (Signed) E.F.

Taken out by Registrar.

[Note.—Where the proceeding is against ship or goods only this form must be adapted accordingly.]

#### No. 4.

#### Rule 20.

#### CERTIFICATE OF SERVICE OF MONITION FOR CONDEMNATION.

This monition was served by me, G.H., marshal (or marshal's substitute) by affixing the same and by leaving a copy in its place, as therein provided, on day, the day of

(Signed) G.H.,  
Marshal (or marshal's  
substitute).

## No. 5.

## AFFIDAVITS AS TO SHIP PAPERS.

Rule 12.(i.) *Ordinary Affidavit.*

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

I, A.B., a , in Her Majesty's navy, and of Her  
Majesty's ship of war , whereof Esq.,  
is commander, make oath and say as follows:—

1. The papers and writings hereunto annexed, and numbered  
from No. to No. inclusive, are all the papers, books, pass-  
ports, sea-briefs, charter-parties, bills of lading, cockets, letters,  
and other documents and writings which were delivered up or  
otherwise found on board the ship called the ,  
whereof was master or commander, and lately  
taken by Her Majesty's said ship of war, at which capture I,  
the said deponent, was present.

2. The said papers and writings are brought and delivered  
in as they were received and taken, without fraud, addition,  
subduction, or embezzlement, and in the same condition (save  
the numbering thereof) as the same were delivered up or found  
on board the said ship.

(Signed) A.B.

Sworn, &c.

Before me,

P.Q.,

Commissioner,

In the presence of

R.S.,

Actuary.

(ii.) *Where Ship Papers lost or mislaid.**(Heading and commencement as in Form (i).)*

1. The papers and writings hereunto annexed, and numbered  
from No. to No. inclusive, are ship papers and documents  
which were delivered up or otherwise found at the time of  
seizure on board the ship , whereof  
was master or commander, and lately taken by Her Majesty's  
said ship of war, at which capture I, the said deponent, was  
present, and such papers and documents as aforesaid are all  
the papers which I now have under my control or in my  
possession.

2. By order of the said  
of the captured ship  
adjudication.

, Esq., I took charge  
to bring her in for

3. When I so took charge I received into my custody papers and documents other than those herein-before mentioned. Such other papers and documents consisted, to the best of my knowledge and belief, of a charter-party (*describe as accurately as possible each document which has been lost or mistaid*).

4. A few days after I took charge as aforesaid, the said ship met with bad weather, and the chart room in which I had the ship papers was struck by a sea and the said papers in the last preceding paragraph mentioned were washed away or destroyed.

or,

(4. A few days after I so took charge as aforesaid, the late master of the said ship, who was being brought in for examination, was found in the cabin in which the said papers were kept, in possession of the said papers, and he had apparently burnt some of the same (*or as the case may be*).)

5. Save as aforesaid the said papers and writings are brought and delivered in as they were received and taken, without any fraud, addition, subduction, or embezzlement, and in the same condition as received (save the numbering thereof).

Sworn, &c.

(Signed) A.B.

(iii.) *Where Ship Papers injured or altered.*

(*Heading and commencement as in Form (i.)*.)

1. The papers and writings hereunto annexed, and numbered from No. to No. inclusive, are all the papers, books, passports, sea-briefs, charter parties, bills of lading, cockets, letters, and other documents and writings which were delivered up and found on board the ship, whereof was master or commander, and lately taken by Her Majesty's said ship of war, at which capture I, the said deponent, was present.

2. By order of the said, Esq., I took charge of the captured ship to bring her in for adjudication.

3. A few days after I so took charge the said ship met with bad weather, and the cabin in which such papers were kept was flooded, and Nos. of such papers were injured (*as the case may be*).

or,

(3. A few days after I so took charge, the master of the captured ship, who was being brought in for examination, was found in the cabin where such papers were kept, in possession of such papers, and it was found that he had altered (*or erased, or obliterated, as the case may be*) portions of Nos. of such papers (*or set out the facts as they occurred*).)

4. Save as aforesaid, the said papers and writings are brought and delivered as they were received and taken, without any fraud, addition, subduction, or embezzlement, and in the same condition as received (save the numbering thereof).

Sworn, &c.

(Signed) A.B.

(iv.) *Where Ship Papers found concealed.*

(*Heading and commencement as in Form (i.).*)

1. The papers and writings hereunto annexed, and numbered from No.        to No.        inclusive, are all the papers, books, passports, sea-briefs, charter-parties, bills of lading, cockets, letters, and other documents and writings which were delivered up or otherwise found at the time of seizure on board the ship       , whereof        was master or commander, and lately taken by Her Majesty's said ship of war, at which capture I, the said deponent, was present.

2. By order of the said       , Esq., I took charge of the captured ship to bring her in for adjudication.

3. On the day of the capture of the said ship, I found the parcel of papers and writings hereunto annexed, and numbered No.        to No.        inclusive, stowed away and concealed in (or among, as the case may be ; state what was concealed and where).

4. The day following, I found the parcels of papers and writings hereunto also annexed, and marked from No.        to No.        inclusive, concealed in (or among, as the case may be, &c.).

5. The said papers and writings are brought and delivered in as they were respectively received, found, and taken, without any fraud, addition, subduction, or embezzlement, and in the same condition (save the numbering thereof) as the same were delivered up or found on board the said ship.

Sworn, &c.

(Signed) A.B.

(v.) *Where no Ship Papers delivered up or found.*

(*Heading and commencement as in Form (i.).*)

1. I was present at the capture of the said ship whereof        was master or commander, and lately taken by Her Majesty's said ship of war.

2. No ship papers of any sort were delivered up or found on board the said ship or elsewhere at the time of the seizure or afterwards.

*(If anything has occurred to account for the absence of papers state the facts, e.g., as follows:)*

3. Whilst Her Majesty's said ship of war was coming up to the said ship for the purpose of searching her, some person on board the said ship was seen to throw overboard a bundle which had the appearance of consisting of papers. This was searched for and could not be found.

Sworn, &c.

(Signed) A.B.

**Rule 17.**

*(vi.) By Person having control of Ship Papers within the Jurisdiction.*

*(Heading as in Form (i).)*

I, A.B., merchant, of \_\_\_\_\_, make oath and say as follows:—

1. I am agent in this country for the owners of the said ship \_\_\_\_\_, and consignee of her cargo.

2. The said ship arrived in the port of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in the ordinary course of her voyage, and was about to discharge her cargo when she was seized as prize by the officers of Her Majesty's Customs in the said port.

3. Prior to such seizure certain ship papers and documents set out below were delivered to me in the ordinary course as agent aforesaid, to enable me to enter the said ship and procure the discharge of her cargo.

4. The papers and documents so delivered to me are hereto annexed and marked A., and numbered from No. \_\_\_\_\_ to No. \_\_\_\_\_, both inclusive.

5. Such papers and documents, marked and numbered as aforesaid, are all the ship papers and documents which were so delivered to me, or came into my possession or control, and are brought and delivered in as they were received and taken, without any fraud, addition, subduction, or embezzlement, save the marking and numbering thereof.

Sworn, &c.

(Signed) A.B.

## No. 6.

## APPEARANCE TO MONITION FOR CONDEMNATION.

Rule 24.(i.) *By Party in Person.*

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that I appear in this cause, and claim as owner  
or as agent on behalf of , the owner) of the  
ship (or of the cargo of the ship , or as  
joint captor, &c., or as the case may be).

Dated this day of

(Signed) A.B.

My address is

My address for service is

(ii.) *By Solicitor for Party.*

(Heading as in Form (i).)

Take notice that I appear in this cause for A.B., of (insert  
address of A.B.) the owner of the ship (or of the cargo  
of the ship , or the joint captor, &c., or as the case  
may be).

Dated this day of

(Signed) J.K.,  
Solicitor for A.B.

My place of business is

My address for service is

## No. 7.

## CLAIMS IN CAUSES FOR CONDEMNATION.

Rule 25.(i.) *Claim by Master.*

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

The claim of , the master of the , a  
subject of His Majesty the King of (or a citizen of  
, as the case may be), on behalf of (fill in name of

owner of ship), of (residence of owner), also a subject of His Majesty the King of (or as above), the true, lawful, and sole owner of the said ship, her tackle, apparel, and furniture, at the time she was taken and seized as prize by Her Majesty's ship , commander, and brought into , (and, if the shipowners are also owners of the cargo or of part thereof) and of (describe the cargo, giving numbers, weight, and description, as—

" 160 casks of tallow, 400 tins of preserved meat, 14 bales of  
 160 casks " hide cuttings, 177 tons (more or less) of bones,  
 tallow, marked " 305 tons (more or less) of bone ash, 1,500 tons  
 E.F. " (more or less) of coal," &c., as the case may be,  
 400 tins pre- marked and numbered (if such is the fact) as per  
 served meat. margin)  
 marked A.K.

laden on board the said ship at the time of the capture thereof aforesaid (and, if claim is made on behalf of cargo owners):

Also on behalf of , of , merchants, subjects (or citizens, &c., as above) of , the true, lawful, and sole owners of (describe goods as above), also laden on board the said ship at the time of the capture aforesaid (and, if he has a private adventure):

And also for his private adventure, consisting of , for the said ship, goods, and private adventure, as the true, lawful, sole, and entire property of (subjects or citizens), of as aforesaid, and for freight, demurrage, and all such loss, costs, charges, damages, and expenses, as have arisen and been incurred, or may arise and be incurred, by reason of the capture and detention aforesaid.

(Signed) A.B.,  
 Claimant.

## (ii.) Claim by Agent.

(Heading as in Form (i).)

The claim of , of , merchant (or as the case may be), on behalf of Messrs. , and , of , merchants, the true, lawful, and sole owners of (enumerate and describe goods), which were laden and on board the said ship at the time of the capture thereof by Her Majesty's ship , commander, and brought into ; for the said goods as the property of neutral subjects, and for all such costs, losses, damages, and expenses which have arisen, or shall or may arise, by reason or means of the capture and detention thereof as aforesaid.

(Signed) A.B.,  
 Claimant.

(iii.) *Claim by Managing Owner.**(Heading as in Form (i).)*

The claim of \_\_\_\_\_, of \_\_\_\_\_, shipowner, on behalf of himself and others as the true and lawful owners and proprietors of the above-named ship \_\_\_\_\_, her tackle, apparel, and furniture, at the time she was taken and seized as prize by Her Majesty's ship \_\_\_\_\_, \_\_\_\_\_, commander, and brought into \_\_\_\_\_ (or, at the time of her seizure by the officers of Her Majesty's Customs at the port of \_\_\_\_\_), and for all losses, costs, charges, damages, demurrage, and expenses which have arisen, or shall or may arise, by reason or means of the seizure and detention of the said ship as prize.

(Signed) A.B.,  
Claimant.

(iv.) *Claim by Master and Sole Owner.**(Heading as in Form (i).)*

The claim of \_\_\_\_\_, the master of the said ship \_\_\_\_\_, a subject of His Majesty the King of \_\_\_\_\_, for and on behalf of himself, the true, lawful, and sole owner and proprietor of the said ship, her tackle, apparel, and furniture, at the time she was taken and seized as prize by Her Majesty's ship \_\_\_\_\_, \_\_\_\_\_, commander, and brought into \_\_\_\_\_ (or, at the time she was taken and seized as prize whilst lying at the port of \_\_\_\_\_ by the officers of Her Majesty's Customs at that port); and for freight, demurrage, and all such loss, costs and charges, damages and expenses as have arisen and been incurred, or shall or may arise and be incurred by reason of the capture and detention aforesaid.

(Signed) A.B.,  
Claimant.

(v.) *Claim by authority of Neutral Government.**(Heading as in Form (i).)*

The claim of \_\_\_\_\_, of \_\_\_\_\_, merchant, by authority of His Excellency the (Ambassador, Minister for Foreign Affairs, or as the case may be) of the (Emperor, King, &c., as the case may be) of \_\_\_\_\_ on behalf of His Majesty the \_\_\_\_\_ of \_\_\_\_\_, for the said ship or vessel called the \_\_\_\_\_ whereof \_\_\_\_\_ was master, her tackle, apparel, and furniture, and for all and singular the goods, wares, and merchandises laden on board the same, at the time when the said ship and cargo were taken and seized as prize whilst in the port or roads of \_\_\_\_\_,



or in waters within three miles of the coast of  
 (or wherever the capture took place), of , by the  
 , commander, and carried to  
 , for the said ship and cargo, as having been  
 seized within the territories and jurisdiction of His Majesty  
 aforesaid, the of , and contrary to  
 and in violation of the law of nations and of the rights and  
 territories of the Crown of His Majesty aforesaid, the  
 of , (and contrary to, and in violation of, existing  
 treaties between Her Britannic Majesty and His Majesty afore-  
 said, the of ,) and for all freight,  
 losses, costs, charges, damages, demurrage, and expenses which  
 have arisen, or shall or may arise, by reason or means of the  
 capture and detention of the said ship and cargo.

(Signed) A.B.,

Claimant on behalf of the Govern-  
 ment (or as the case may be)  
 of .

(vi.) *Claim for Droit of Admiralty on Seizure in Port.*

(Heading as in Form (i).)

The claim of , on behalf of Our Sovereign  
 Lady the Queen, in Her office of Admiralty, for the said ship  
 the , whereof was master, her  
 tackle, apparel, and furniture, and any goods laden therein,  
 seized and taken in port, in , by Her Majesty's  
 ship the , commander, and proceeded  
 against in the Court of , as prize to  
 the said ship .

For the said ship the , her tackle, apparel,  
 and furniture, and any goods laden therein as being the  
 property of , seized and taken as aforesaid,  
 in , subsequent to the date of Her  
 Majesty's Orders in Council for general reprisals against  
 , and as such or otherwise subject to confiscation  
 as prize, and as droits and perquisites of Her Majesty in Her  
 office of Admiralty; and for all costs, losses, damages, and  
 expenses that have arisen, or shall or may arise, and be due in  
 the premises.

(Signed) A.B.,

Claimant on behalf of the Admiralty.

(vii.) *Claim for Droit of Admiralty on Capture by  
 Non-commissioned Ship.*

(Heading as in Form (i).)

The claim of , on behalf of Our Sovereign  
 Lady the Queen, in Her office of Admiralty, for the said ship,  
 the , whereof was master, her  
 tackle, apparel, and furniture, and any goods laden therein,

seized and taken by the ship , , commander, and proceeded against as prize to the said ship (or Her Majesty, as the case may be).

For the said ship, the , her tackle, apparel, and furniture, and any goods laden therein, as being the property of , seized and taken as aforesaid by a ship other than a ship of war of Her Majesty, and as such or otherwise subject to confiscation as prize, and as a droit and perquisite of Her Majesty in Her office of Admiralty.

(Signed) A.B.,  
Claimant on behalf of the Admiralty.

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No. 8.

AFFIDAVITS VERIFYING CLAIMS.

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Rule 25.

(i.) *By Master.*

No.

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of

In Prize.

The , master.

I, the above-named , master of the , a subject of His Majesty the King of (or, a citizen of , as the case may be), make oath and say as follows:—

1. I verily believe the said ship, her tackle, apparel, and furniture, and the goods, wares, and merchandise specified in the claim hereunto annexed, laden on board the said ship at the time she was taken and seized as prize by Her Majesty's ship , commander, and brought into , were, and now are, the true, lawful, sole, and entire property of the several persons therein named, respectively, of aforesaid, merchants and subjects (or citizens) of , on whose behalf the same are claimed.

(And, if he has a private adventure:)

2. And I further say that the goods comprising my private adventure, viz., , did belong to me, this deponent, at the time of lading the same and at the time of capture thereof, and do so belong to me at this present time, and would have so belonged, in case they had not been seized and taken as aforesaid, and will belong to me in case the same shall be restored, and until sold and disposed of for my account and benefit.

3. And I further say that no person or persons belonging to or being a subject or subjects (or citizen or citizens) of the

King (*or* Emperor, Republic, &c., *as the case may be*) of  
 , or inhabiting within any of the territories  
 of the King (*or, as above*) of  
 their factors or agents, nor any person or persons whosoever,  
 enemies of the Crown of Great Britain and Ireland, had at the  
 time of the capture aforesaid, or now have, any right, title, or  
 interest in the said ship, her tackle, apparel, and furniture, or  
 the said goods, wares, and merchandise, or any part thereof.

4. And I further say that I verily believe the claim hereunto  
 annexed to be a true and just claim, and that I shall be able to  
 make due proof and specification thereof.

Sworn, &c.

(Signed) A.B.

(ii.) *By Agent.*

(*Heading as in Form (i.).*)

I, A.B, of , merchant (one of the partners in  
 the house of trade of Messrs. of ,  
 merchants, *or as the case may be*), make oath and say as  
 follows:—

1. I am duly authorised to make the claim hereto annexed on  
 behalf of Messrs. & Co., of , merchants,  
 subjects of His Majesty the King (*or* citizens of, &c., *as the case  
 may be*) , whom I verily believe to be the true, lawful,  
 and sole owners and proprietors of  
 laden on board the said ship , at the time she  
 was seized and taken as prize by the  
 commander, and brought to

2. And I further say, that though by the bills of lading and  
 other papers on board the said ship at the time of the capture  
 thereof aforesaid she appeared to be destined to  
 yet that the real destination of the said ship at the time of the  
 capture thereof was for the port of , and such  
 ostensible destination was inserted solely for the purpose of pro-  
 curing her to be cleared out at , and for protecting  
 her from capture by the enemy during the voyage, and the afore-  
 said was intended to be imported by this deponent's  
 house, under and by virtue of Her Majesty's general instructions,  
 dated

3. And I further say that neither the Government (*or* the  
 King, *or as the case may be*) of (nor the King of  
 ), nor any person being a subject, or inhabiting  
 within any of the territories, of the Government (*or* King, &c.)  
 of (or of the King of ) nor their factors,  
 agents, nor any others, enemies of the Crown of Great Britain  
 and Ireland, had at the time of the capture thereof or now have  
 any right, title, or interest in or to the said or any  
 part thereof.

4. And I further say that the claim hereunto annexed is a true and just claim, and that I shall be able to make due proof and specification thereof.

Sworn, &c.

(Signed) A.B.

(iii.) *By Managing Owner of Ship.*

(*Heading as in Form (i.)*)

I, A.B., of , shipowner, make oath and say as follows :—

1. I am the managing owner of the ship , and am duly authorised to claim on behalf of myself and (*fill in names of co-owners*), the owners of the said ship , her tackle, apparel, and furniture.

2. The said ship is and was a British registered vessel at the time of the capture and seizure thereof as prize by

3. Neither the King of (*or as the case may be*), nor any of his subjects or others inhabiting within any of his territories or dominions, nor any others enemies of the Crown of Great Britain and Ireland, had, at the time of capture and seizure aforesaid, or now have, directly or indirectly, any right, title, or interest in or to the said ship or vessel, her tackle, apparel, and furniture, but the same was at the time of the capture and seizure, and still is, and, if restored, will be the sole property of me, the said , and the said (*fill in names of co-owners*).

4. And I further say that I verily believe the claim hereto annexed to be a true and just claim; and that I shall be able to make due proof and specification thereof.

Sworn, &c.

(Signed) A.B.

(iv.) *By Owners of Cargo.*

(*Heading as in Form (i.)*)

I, A.B., of , merchant, make oath and say as follows :—

1. I am a partner in the firm of , carrying on business at , and am duly authorised to claim on behalf of myself and of C.D. and E.F., the remaining partners in the said firm of , respectively, subjects of Our Sovereign Lady the Queen, the three lawful and sole owners and proprietors of [160 casks of tallow, 400 tins of preserved meats, 14 bales of hide cuttings, 177 tons of bones (more or

less), &c., *as the case may be*], being part of the cargo which was laden on board the said ship or vessel at the time of the capture and seizure thereof by Her Majesty's ship , commander.

2. Neither the King of (or *as the case may be*) nor any of his subjects or others inhabiting within his territories or dominions, nor any others enemies of the Crown of Great Britain and Ireland, had, at the time of capture and seizure aforesaid, or now have, directly or indirectly, any right, title, or interest in or to the said part of the said cargo, or any part thereof.

3. And I further say that I verily believe the claim hereto annexed to be a true and just claim; and that I shall be able to make due proof and specification thereof.

Sworn, &c.

(Signed) A.B.

(v.) *By Agent of Neutral Government.*

(*Heading as in Form (i.)*)

I, A.B., of , merchant, make oath and say as follows:—

1. I am duly authorized to make the claim hereto annexed on behalf of His Majesty the King (or the Government, &c., *as the case may be*) of , by His Excellency , Ambassador (Minister for Foreign Affairs, or *as the case may be*) of the King (or Government, &c.) of , as will more fully appear by the authority hereunto annexed.

2. And I further say, that I have been informed, and verily believe, that the said ship , whereof was master, and her cargo, were in the port of (or in waters within three miles of the coast of or lying in the roads or anchorage of ), within the territories and dominions of His Majesty aforesaid, the King (or of the aforesaid Government, &c., *as the case may be*) of , on or about the of , when they were taken and seized by the (or by the boats of the ) commander, which was then lying off the harbour (roads or coast) of aforesaid, and which ship (or boats) made the said capture within the said harbour (or roads or waters) contrary to, and in violation of, the law of nations, and of the rights and territories of the Crown of His said Majesty, the King (or Government, &c.) of , and contrary to, and in violation of, existing treaties between Her Britannic Majesty and his said Majesty the King (or the said Government, &c.) of

3. And I further say, that I have been informed, and believe, that after the aforesaid capture of the and cargo, they

were carried to , and are awaiting adjudication in the Court of , in .

4. And I further say, that I verily believe the claim hereto annexed to be a true and just claim; and that I shall be able to make due proof and specification thereof.

Sworn, &c.

(Signed) A.B.

(vi.) *Authority from Ambassador or other Diplomatic Agent, or from Minister for Foreign Affairs.*

A.B., Ambassador (Minister for Foreign Affairs or as the case may be) of His Majesty the King (or the Government, &c., as the case may be) of .

The ship or vessel called the having been captured by the British ship of war called the , in the port of , in (or in the roads of , or in waters within three miles of the coast of ), and the said vessel having been proceeded against as lawful prize, I hereby authorise and empower of , merchant, in the name of my Government, to interpose a claim in respect of the said ship and her cargo, alleging the said vessel to have been captured whilst under the protection of the said port (or roads or waters) whereby the law of nations, which affords protection to vessels whilst within territorial waters, has been violated.

(L.S.)

(Signed) A.B.

Given at , the , .

Faithfully translated from the language, in the day of , by me,

C.D.,

Notary Public.

(vii.) *By Admiralty Proctor or other Agent of Admiralty.*

(Heading as in Form (i).)

I, S.T., of , Procurator General of Her Majesty in Her office of Admiralty (or as the case may be), make oath and say as follows:—

From information I have received, I believe the claim hereunto annexed to be true, and that I shall be able to make due proof thereof.

Sworn, &c.

(Signed) S.T.

## No. 9.

Rule 27.

## STANDING INTERROGATORIES.

STANDING INTERROGATORIES to be administered on behalf of Our Sovereign Lady Victoria, by the Grace of God of Great Britain and Ireland Queen, Defender of the Faith, Empress of India. To all Commanders, Masters, Officers, Mariners, and other persons found on board any ship or vessel which hath been or shall be seized or taken as prize by any of Her Majesty's ships or vessels of war, concerning such captured ships or vessels, or any goods, wares, or merchandise on board the same, examined as witnesses in preparatory.

*Let each witness be asked the following questions, and let his answer to each question be written down distinctly and separately.*

1. What are your true names? Where were you born? In what place or places have you lived during the seven years last past? Where do you now live, and how long have you lived in that place? To what prince, state, or power are you now, or have you at any previous time, and when, been a subject? or said or represented that you were a subject? Have you ever, and when, taken any and what oath of allegiance, and to whom? or obtained, or received, or applied for any and what certificate of your being, or have you become, or taken any and what measures to become, a citizen or subject of, or entitled to the protection of, any and what state or country? Of what cities or towns have you ever been admitted a burgher or freeman? And when and in what manner were you so admitted? How long have you resided there since you were so admitted? Where have you since resided? What did you pay for your aforesaid admission? Are you married? If yea, where do your wife and family reside?

2. Were you present at the time of the taking and seizing of the ship or her lading, or any of the goods or merchandises concerning which you are now examined? Had the ship concerning which you are now examined, any and what commission or letter of marque? If she had, what was that commission or letter of marque, and by whom, when, and where was it granted?

3. In what port or place, by latitude and longitude, bearing and distance, and in what year, month, and day were the ship and goods, concerning which you are now examined, taken and seized? Upon what pretence, and for what reasons, were they, or any, and what part thereof, so seized? Into what port or place were they carried? Under what colours did the said ship sail first on her voyage? What colours had she hoisted or flying when seized or captured? What other colours had she on board, and

for what reason had she such other colours? Did she ever, and when, hoist the same, or any, and which of them? Was any resistance made at the time the said ship was taken? and, if yea, what sort of resistance, and by whom? Were any and what description of fire arms, or cannon, or muskets, or any other and what kind of weapons used in such resistance? By whom, or by what ship or ships, were you taken? Was such vessel a ship of war, or a vessel acting without any commission, as you believe? Were any other, and, if yea, what ships in sight at the time of the capture?

4. What is the name of the master or commander of the captured ship concerning which you are now examined? How long have you known the said master? Who appointed him to command the said ship? Where and when did he first take possession of her, and at what time? and who by name delivered the possession of her to him? Where is such person? and where is the master now? Where is the fixed place of abode of each of them? *If the witness replies that either has no fixed place of abode, then ask him where was the last place of abode of such person? And where did he generally reside? How long has he lived there? Where was he born, and of what state is he now a subject? Is he married? If yea, where do his wife and family reside?*

5. Of what registered and gross tonnage or burthen is the ship concerning which you are now examined? Of what material is the ship constructed? Is she a sailing ship or steam ship, or how is she propelled? If a steam ship, is she a screw or paddle steamship? What is the horse-power nominal and effective of her engines? What is the ordinary full speed of the ship, and what is her daily consumption of coal at such full speed? What is the length of the ship and her beam? What was her draft of water when she sailed from the last port before she was captured, and what was it at the time of capture? What was the number of mariners on board her when you joined her? And at the time of her capture or seizure? And of what country was each of the said mariners? Did all such mariners come on board at the same port? And, if nay, at what ports did they severally come on board? Who shipped or hired each of them, and when and where were they so shipped or hired? and for, or upon, what voyage?

6. Had you, or any, and which of the officers or mariners belonging to the ship concerning which you are now examined any, and if yea, what part, share, or interest in the said ship or her lading? Set forth who among the said officers or mariners are so interested, and to what extent you or they are so interested. Did you belong to the ship at the time she was seized and taken? If yea, in what capacity? How long have you known the said ship? When and where did you first see her? Where was she built?



7. What is the name of the said ship? How long has she been so called? Do you know of any other name or names by which she has ever and when been called? If yea, set forth such names, and when, and why, and for how long she was called by each or any of such names. Had she any passport or sea-brief on board? and if yea, from whom?

8. To what ports and places did she sail during the said voyage before she was taken? Where did the voyage on which she was taken begin? and where was it to have ended? Set forth the nature of every voyage the said ship has sailed upon, and the quality of every cargo the said ship has carried from the time you have known her up to the time of her capture, and state at what port each of such cargoes has been delivered. From what ports and at what time, particularly from the last clearing port, did the said ship sail previously to the capture? Under whose direction and management has she usually been with respect to her employment or trade? With whom do you correspond on the concerns of the vessel or her cargo?

9. What lading did the said ship carry at the time of her setting sail in her last voyage, and what particular sort of lading and goods had she on board at the time she was taken? How much of such lading was bunker coal? In what year, month, and place, was the same put on board her? Set forth the different species of the lading, specifying the quantity of each species.

10. Who were the owners of the ship, concerning which you are now examined, at the time when she was seized? How do you know that such persons were the owners at such time? Of what nation or country are such owners by birth? Where do they reside? and where do their wives and families reside? How long have they resided there? Where did they reside before, to the best of your knowledge? Of what princes, states, or powers are they subjects or citizens?

11. Was any bill of sale, or any and what similar document of transfer, made—and, if yea, by whom?—to the aforesaid owners of the said ship? If any was made, in what month, year, where and before what witnesses, was such bill of sale or similar document of transfer made? Where did you last see it and what is become of it? Was any, and what, engagement entered into concerning the purchase, further than what appears upon the bill of sale? If yea, was it verbal, or in writing? If in writing, where did you last see such writing, and what has become of it?

12. Was the said lading put on board in one port, and at one time, or in several ports, and at several times; and in what ports by name, and at what times particularly? Set forth what quantities of each sort of goods were shipped at each port.

13. What are the names of the respective laders, or owners, or consignees, of the said goods? What countrymen are they?

Where do they now live and carry on their business or trade? How long have they resided there? Where did they reside before, to the best of your knowledge? And where were the said goods to be delivered, and for whose real account, risk, or benefit? Have any of the said consignees or laders any, and what, interest in the said goods? If yea, whereon do you found your belief that they have such interest? Can you take upon yourself to swear that you believe that at the time of the lading the cargo, and at the present time, and also if the said goods shall be restored and unladen at the destined ports, the goods did, do, and will belong to the same persons, and to none others?

14. How many bills of lading were signed for the goods seized on board the said ship? Were any of those bills of lading false or colourable, or were any bills of lading signed which were different in any respect from those which were on board the ship at the time she was taken? What were the contents of such other bills of lading and what became of them?

15. Are there anywhere in this colony, and where particularly, any bills of lading, invoices, letters, or instruments relative to the ship and goods concerning which you are now examined? If yea, set forth where they are, and in whose possession, and what is the purport thereof, and when they were brought or sent there.

16. Was there any charter-party signed for the voyage in which the ship concerning which you are now examined was seized and taken? What became thereof? When, where, and between whom, was such charter-party made? What were the contents of it?

17. What papers, charter-parties, bills of lading, invoices, letters, or other writings were on board the ship at the time she took her departure from the last clearing port, before she was taken as prize? Were any, and, if yea, which of them burned, torn, thrown overboard, destroyed, altered, or cancelled, or concealed, or attempted to be concealed, and when, and by whom, and in whose presence?

18. Has the ship concerning which you are now examined ever been, and if yea, when, seized as prize, and condemned as such? If yea, set forth by whom, when, and where, she was seized and into what port she was carried, and by whom, and by what authority, and on what account she was so condemned.

19. Have you sustained any loss, and what, by the seizing and taking of the ship or goods concerning which you are examined? If yea, how do you compute such loss? Have you hitherto received any indemnity, satisfaction, or promise of satisfaction, for any part of the loss or damage which you have sustained, or may sustain, by this capture and detention? And, if yea, when, and from whom?

20. Are the said ship and goods, or is any, and what part thereof, insured? If yea, for what voyage, and against what risks was such insurance made? And at what premium? And when and by what persons and in what country?

21. In case you had arrived at your destined port, would your cargo or any part thereof, on being unladen, have immediately become the property of the consignees or any other person, and whom? Or was the lader to take the chance of the market for the sale of his goods?

22. State in respect to the lading of the ship concerning which you are now examined and each part thereof, in what country the same was grown and produced and manufactured respectively.

23. When the said cargo was originally put on board, was all the said cargo, or any, and what part thereof, and when, taken from the shore and quay, or removed or transhipped from one boat, barque, vessel, or ship to another? From what, and to what, shore, quay, boat, barque, vessel, or ship, and when and where was the same so taken, removed, or transhipped?

24. Are there in any place or country besides this colony, and where, particularly, or on board any and what ship or vessel, other than the ship concerning which you are now examined, any letters, instruments, papers, or documents relative to the said ship or goods as you know, believe, or have heard? And of what nature are such letters, instruments, papers, or documents? And what are their contents as you know, believe, or have heard? In whose possession are they, and do they differ from any of the papers on board? And, if yea, in what particular?

25. Were any papers delivered out of the said ship or vessel, and carried away in any manner whatsoever? And, if yea, when, and by whom, and to whom? And in whose custody, possession, or power do you believe the same now to be?

26. Was bulk broken during the voyage in which you were taken, or since the said ship was captured? And, if yea, when, where, and by whom? By whose orders, for what purpose, and in what manner?

27. Were there any passengers on board the aforesaid ship during any, and what, part of the voyage on which she was captured? If yea, how many, and who were such passengers by name? Of what nation, rank, profession, or occupation was each of them? Did any, and which of them, hold any, and what commission? And from whom, and for what purpose? Were any, and which, of such passengers secreted at the time of the capture, and why? At what place, and when, was each of them taken on board? To what place was each of them destined, or said or supposed to be destined, and upon what business? or for what real purpose or design was he destined

there? Did they pay, or agree to pay, anything, and what, for their passage, and to whom? Had any, and which, of such passengers any, and what, property, or concern, or authority, directly or indirectly, regarding the ship or cargo? Were there at any time during the voyage in which the said ship was captured any officers, soldiers, or mariners secreted on board her? and, if yea, for what reason were they so secreted? Were any of Her Britannic Majesty's subjects on board, or secreted or confined, during the said voyage or at the time of the capture? If yea, how long had they been so secreted, or confined, and for what reason?

28. Were, and are, all the passports, sea-briefs, charter-parties, bills of sale or lading, invoices, and papers found on board the said ship, and referring to the ownership thereof, or to the cargo, true and fair, or are any, and which, of them false and colourable? Do you know of any matter or circumstance to affect their credit? By and from whom were the passports and sea-briefs obtained? Were they obtained for this ship only, and upon the oath or affirmation of the persons therein described? or were they delivered to, or on behalf of, the person or persons who appear to have been sworn, or to have affirmed thereto without their having ever, in fact, made any such oath or affirmation? How long a time were they to last? Was any duty or fee payable and paid for the same? And is there any duty or fee payable and paid for the same? And is there any duty or fee to be paid on the renewal thereof? Have such passports been renewed, and how often, and has the duty or fee been paid for such renewal? Was the ship in a port in the country where the passports and sea-briefs were granted? And if not, where was the ship at the time? Had any person on board any let-pass or letters of safe conduct? If yea, from whom and for what business?

29. *If it should appear that there are in any place or country besides this colony, any bills of lading, invoices, instruments or papers relative to the ship concerning which the witness is now examined, ask him, how did the same come to be in such place or country? Were you ever in such place or country? and, if yea, when, and on what account? In whose possession are such instruments or papers? Do they differ? and, if yea, in what particulars, from any of the papers on board or in this colony, or from any other papers referring to the same ship in any other place? Have you written or signed any letters or papers concerning the said ship or her cargo? If yea, set forth their purport. To whom were such papers written and sent, and what has become of them?*

30. Towards what port or place was the ship steering her course at the time of her being first pursued and taken? Was her course altered upon or after the appearance of the vessel by whom she was taken, and how altered, and with what object or

purpose? Was her course at all times, when the weather would permit, directed to the place or port for which she appears to have been destined by the ship's papers? Was the ship before or at the time of her capture sailing beyond or wide of the said place or port to which she was so destined by the said ship's papers? At what distance was she therefrom? Was her course altered at any and what time, and to or towards any, and what, other port or place, and for what reason? Did she make any, and what, attempt to escape the said ship by which she was captured? When did she first see that ship, and at what distance? Did she thereupon make or shorten sail, or slacken or increase her speed, and how? When and by what means was she stopped, brought to, or boarded?

31. By whom, and to whom, has the said ship ever been sold and transferred, and how often, and at what time and place, and for what sum or consideration? Has such sum or consideration been paid or satisfied? Was such sum a fair equivalent for her? If such sum has not been paid, what security or securities have been given for the payment of the same, and by whom? And where do the persons who have given such security now live? Do you know or believe in your conscience, such sale or transfer to have been truly made, and not for the purpose of covering or concealing the real property or interest in the ship? Do you verily believe, that if the ship be restored, she will belong to the persons now asserted to be her owners, and no others? Are there any, and, if yea, what private agreements for the return of the ship to her former owners, at the conclusion of the war, or at any and what other period?

32. What guns were mounted on board the said ship, and of what calibre were they? and what arms, and ammunition were there belonging to her? Why was she so armed? Was there on board any other guns, mortars, howitzers, balls, shells, torpedoes, rockets, hand grenades, rifles, muskets, carabines, pistols, fuzees, halberts, spontoons, swords, bayonets, locks for muskets, flints, ramrods, belts, cartridges, cartridge boxes, pouches, gunpowder, percussion caps, saltpetre, nitre, camp equipage, military tools, uniforms, soldiers' clothing or accoutrements, or any sort of warlike and naval stores, or steam engines or machinery, or parts thereof? Were any of such warlike or naval stores or things thrown overboard, at or before the time of the capture? And were, and are, any such warlike or other stores before described concealed on board under the names of merchandise, or any other colourable appellation, in the ship's papers? If yea, what are the marks of the casks, bales, and packages, in which the same are concealed? Were any of the before-named articles, and which, intended for the use of any fortress or garrison in the port or place to which such ship was bound? If nay, to whose use, and for what place, were the same, or any and which of them, really destined or intended? Do you know, or have

you heard of, any ordinance, notice, or law, existing in the kingdom, state, or place from which the voyage began, or where they were shipped, forbidding the exportation of the same by private persons? Were such warlike or naval stores put on board by any and what public authority? When, and where, and by whom, were they put on board?

33. What is the whole which you know or believe regarding the real and true property and destination at the time of the capture of the ship and cargo concerning which you are now examined?

34. Did the said ship on the voyage in which she was captured, or during any, and what former voyage, sail under the convoy of any and what ship or ships of war, and other armed vessel or vessels? And, if yea, for what reason did she sail under such convoy? Of what force was or were such convoying ship or ships? And to what state did they belong? What instructions or directions did you receive on each and every such voyage, when under convoy, respecting your sailing or keeping in company with such armed or convoying ship or ships? and from whom did you receive such instructions or directions? And from whom did you receive any instructions for resisting, or endeavouring to avoid, or escape from capture; or for destroying, or concealing, or refusing to deliver up your ship's documents or papers, or any and what other papers that might be or had been put on board your vessel? If you had any such instructions, state their tenor and all particulars relating thereto. *Ask the witness if he is in possession of such instructions or copies thereof; and if he be, direct him to leave the same with the examiner, to be annexed to his deposition.*

35. Did the said ship during the voyage in which she was captured, or on, or during any, and what former voyage, sail to, or attempt to enter or leave, any port, place, river, or coast which was under blockade by the arms or forces of any, and which, of the belligerent powers? If yea, when, where, and how did you first hear of such port, place, river, or coast being so blockaded? And were you at any, and what, time; and, if yea, by whom, and where, warned not to proceed to, or not to attempt to enter, or to leave such blockaded port, place, river, or coast? What conversation or other communication passed between you and your informant, in respect thereto? And what course did you pursue upon and after such warning?

36. What instructions did you or did any, and what other, person on board receive, and from whom, and when, with respect to any and what blockade which there was, or might thereafter be, established? Or will you swear that you never received, and do not know or believe that any other person on board received, any instructions whatsoever in respect to any blockade which was, or might be, established of any port, place, or coast?

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## No. 10.

Rule 29.COMMISSION FOR THE EXAMINATION OF WITNESSES ON  
STANDING INTERROGATORIES.

(L.S.)

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India.

To (*fill in names of persons to be appointed Commissioners*).

Greeting :

Whereas *H.R.*, Chief Justice (*or Judge*) of Our Vice-Admiralty (*or Supreme, or other Court having prize jurisdiction, as the case may be*) Court of in prize, hath on the application of (*insert name and title of agent for Procurator General*), on Our behalf, ordered a commission to the effect hereunder written. We therefore give power and authority unto you, jointly and severally, and do hereby charge and require you, that upon such days, and at such places, as shall be by you appointed for that purpose, you do administer an oath in due form of law unto, and secretly and separately examine and interrogate, the respective commanders, masters, officers, mariners, and other persons found on board any ship or vessel belonging to (*fill in title of enemy Government, as the King of*), or to his subjects, or to any others inhabiting within any of his countries, territories, or dominions, already seized and taken, and which hereafter shall be seized and taken as prize by any of Our ships or vessels of war, or otherwise seized as prize and brought or to be brought to or near (*fill in name of place where the commissioners are to hold examinations*), or such other person or persons, by whom the truth may be discovered, relating to the property of such ships, vessels, and goods, that shall be produced and brought before you, or one of you, upon certain interrogatories annexed to these presents, in order to judgment, and also upon such other interrogatories as may be transmitted unto you as occasion shall require, and that you cause their sayings and depositions to be faithfully reduced into writing, assuming for your registrar or actuary, registrar of the said Court, or any other person (*barrister or solicitor, if possible*) to be by him substituted, and also assuming, as often as occasion shall require, an interpreter of good credit to be by you sworn. Further requiring you that having finished the business of examination of the commander, master, officers, mariners and other persons found on board any ship or vessel seized or taken, or to be seized or taken as aforesaid, and such other person or persons, by whom the truth may

properly be discovered, relating to the property of such ship, vessel, and goods, you do immediately after the examination of such witnesses duly transmit to the said Chief Justice (*or Judge*) of Our said Court their sayings and depositions, with the ship papers delivered up, on oath, together with a copy of the interrogatories upon which they were examined, and the whole proceedings which from time to time have been had and done before you, or one of you, reduced into a proper form, and authentically and closely sealed up, lest they should be opened or perused, and hereof fail not.

Given at \_\_\_\_\_, in Our aforesaid Court, under the seal thereof, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand \_\_\_\_\_ hundred and \_\_\_\_\_.

(Signed) *E.F.*,  
Registrar.

And I, the aforesaid \_\_\_\_\_, registrar of Her Majesty's \_\_\_\_\_ Court of \_\_\_\_\_, do by these presents name and substitute in my stead and place for expediting this commission (*insert names of one or more barristers or solicitors to act as actuaries*), reserving to myself the power of substituting any other person or persons as I shall think fit.

Given as above

(Signed) *E.F.*,  
Registrar.

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No. 11.

CERTIFICATE AT FOOT OF ANSWERS TO STANDING  
INTERROGATORIES.

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Rule 35.

Taken and acknowledged [by the interpretation of *A.B.*, of \_\_\_\_\_, gentleman (*or notary public, or as the case may be*), if the examination is taken by interpretation].

Before us,

(Signed) *C.D.*, (Signed) *A.B.*,  
*H.F.*, Interpreter (and Notary Public).  
Commissioners.

In the presence of *E.F.*,  
Registrar (*or Actuary*).

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## No. 12.

Rule 36.HEADING TO DEPOSITIONS IN ANSWER TO STANDING  
INTERROGATORIES.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction), Court of .

In Prize.

The , master.

The depositions of all and singular the witnesses respecting  
the capture of the ship or vessel , whereof  
now is or lately was master, taken on the  
and days of in the year of our Lord ;  
at the house of , at , in  
upon the standing interrogatories; by virtue of a commission  
issued under seal of the said Court, bearing date the  
day of , and addressed to [*set forth the names of all  
commissioners mentioned in the standing commission*] jointly  
and severally; before us the said and ;  
upon the oaths of the several witnesses; [*and, if any portion  
of the examination is taken by interpretation, by the interpre-  
tation of , of , notary public (or as  
the case may be) aforesaid, who was first sworn that he well  
understood the English and languages, and faithfully  
to interpret between the Court and the witnesses;*] in the  
presence of , registrar (or , one  
of the actuaries under the said standing commission), following  
to wit:

A.B., master of the ship or vessel , of ,  
aged years, a witness produced and sworn, on his oath  
deposes and says as follows:—  
( the day of .)

1. To the first interrogatory, the witness answering, says:—

## No. 13.

Rule 36.

## RETURN TO DEPOSITIONS ON STANDING INTERROGATORIES.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction), Court of .

In Prize.

The , master.

I, E.F., registrar of the above Court (or actuary, as the  
case may be), do hereby certify that C.D., D.F., and G.H.,

witnesses respecting the capture of the ship or vessel ,  
 whereof now is or lately was master, were by  
 virtue of the standing commission herein-after mentioned, on the  
 and days of ,  
 at the house of , at , in  
 , in my presence produced, and separately sworn,  
 and examined upon the interrogatories annexed to the commis-  
 sion, and of which a copy is herewith sent, by and  
 , two of the commissioners named in the said  
 standing commission, issued under the seal of the above Court,  
 bearing date the day of , and  
 addressed to (*here set forth the names of all the commissioners  
 mentioned in the commission*), jointly and severally. And the  
 depositions of the said witnesses were faithfully reduced into  
 writing by me, *E.F.*, registrar (*or* actuary, substituted and  
 appointed for that purpose by , Esquire, registrar  
 of the above Court).

[And inasmuch as *C.D.*, one of the aforesaid witnesses, is a  
 , and not conversant with the English language,  
*J.K.*, of , notary public (*or as the case may be*), a  
 person well acquainted with the English and  
 languages, was by the said two commissioners in my presence  
 sworn well and truly to interpret the sayings and depositions of  
 the said witness.] Which depositions so reduced into writing  
 are to these presents annexed, all of which I do certify under  
 my hand and notarial seal at aforesaid, the  
 day of , in the year of our  
 Lord

(L.S.)

(Signed) *E.F.*,  
 Registrar  
 (*or* Actuary).

## No. 14.

PRÆCIPÉ FOR A MONITION TO CAPTORS TO PROCEED TO  
ADJUDICATION.

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 Rules 43  
 and 264.
 

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No.

In the Vice-Admiralty (*or* the Supreme *or* other Court having  
 prize jurisdiction) Court of

In Prize.

The , master.

I, *J.K.*, solicitor for *C.D.*, claimant of the ship  
 (*or*, of the cargo of the ship , *or as the case may be*)  
 taken or seized by Her Majesty's ship  
 commander [*or by (insert names of actual captors)*], and brought

into the port of \_\_\_\_\_ (or, now lying in the port of \_\_\_\_\_, as the case may be), pray a monition against the said (insert name or names of commander of Her Majesty's ship or of captors or seizors), to proceed to adjudication. And I consent that all instruments and documents having to be served on the said *C.D.* may be left with me at (give an address as required by Rule).

Dated this \_\_\_\_\_

day of \_\_\_\_\_

(Signed) *J.K.*,

Solicitor for the Claimant.

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No. 15.

Rule 43.

MONITION TO CAPTORS TO PROCEED TO ADJUDICATION.

No. \_\_\_\_\_

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of \_\_\_\_\_

In Prize.

The \_\_\_\_\_, master.

(L.S.)

Victoria, by the Grace of God, &c., &c.

To the marshal of Our \_\_\_\_\_ Court of \_\_\_\_\_, and to all and singular his substitutes and others Our officers greeting :

Whereas the ship \_\_\_\_\_, master, and the goods, wares, and merchandise laden therein, have been seized and taken as prize by Our ship of war \_\_\_\_\_, commander (or, by \_\_\_\_\_ and \_\_\_\_\_, Our officers of Customs at the port of \_\_\_\_\_), and taken to \_\_\_\_\_, but no proceedings have been taken to bring the said ship and the said goods, wares, and merchandise to adjudication, and whereas application has been made on behalf of \_\_\_\_\_, master and claimant (or as the case may be) of the said ship \_\_\_\_\_, her tackle, apparel, and furniture, for and on behalf of subjects (or, citizens) of \_\_\_\_\_, as lawful and sole owners thereof, and also claimants of the goods, wares, and merchandise laden on board the said ship, on behalf of such person or persons, neutral subjects, to whom the same shall or may appear to belong, for a monition against the said (fill in the name of the captor or seizor) to proceed to adjudication.

We, therefore, command you that you monish and cite the said (fill in the name of the captor or seizor), and also

Our Procurator General (*or, Our Procurator General in Our office of Admiralty, as the case may be*), to enter within six days from the service hereof (exclusive of the day of such service) in the Registry of Our said Court, an appearance in this cause, and thereupon to proceed in Our said Court to the legal adjudication of the said ship, her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, whether good and lawful prize or not, or to show cause why the said ship or vessel, her tackle, apparel, and furniture, and the said goods, wares, and merchandise, should not be released and restored to the said claimants for the use of the owners and proprietors thereof, together with all costs, damages, and expenses arising or to arise from the said capture or seizure: And that you warn all the said persons that if they do not enter an appearance and proceed as aforesaid, or, appearing, do not show good cause to the contrary, the Judge of Our said Court will proceed to decree the said ship, her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, to be released from the capture and seizure aforesaid, and to be restored to the said , the master and claimant, for the use of the owners and proprietors thereof, together with all costs, damages, and expenses arising or to arise from the said capture and seizure, or will make such order therein as to him shall seem right.

Given at                      in Our said Court, under the seal thereof,  
this                      day of                      .

Monition to proceed.

(Signed)                      *E.F.*,  
   Registrar.

Taken out by                      .

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No. 16.

CERTIFICATE OF SERVICE OF MONITION TO PROCEED.

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Rule 45.

This monition was served by me, *G.H.*, marshal (*or, marshal's substitute*), by showing the same to and leaving a copy thereof with *A.B.*, the commander of Her Majesty's ship (*or as the case may be as provided by Rule 44*) on the day of                      .

(Signed)                      *G.H.*,  
Marshal (*or marshal's substitute*).

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No. 17.

Rule 49.

APPEARANCE TO MONITION TO PROCEED.

No. .

In the Vice-Admiralty (*or the Supreme or other Court having prize jurisdiction*) Court of .

The , master.

(i.) *By Party in Person.*

Take notice that I appear in this cause and am willing (*or, decline, as the case may be*) to proceed.

Dated this day of .

(Signed) A.B.

My address is .

My address for service is .

(ii.) *By Solicitor for Captor or Seizor.*

Take notice that I appear for A.B., of , in this cause and am willing (*or, decline, as the case may be*) to proceed.

Dated this day of .

(Signed) J.K.

My place of business is .

My address for service is .

No. 18.

Rule 52.

AFFIDAVIT ON FURTHER PROOF.

In the Vice-Admiralty (*or the Supreme or other Court having prize jurisdiction*) Court of .

In Prize.

The , master.

I, A.B., of , merchant (one of the partners in the house of trade of Messrs. , of , merchants, *or as the case may be*), make oath and say as follows:—

1. In the month of last, I caused to be shipped at , for my own absolute and sole account, risk, and benefit, on board the ship , master, bound

to \_\_\_\_\_, the following goods, viz. (*describe the goods in question as—*

160 casks	" 160 casks of tallow, 400 tins of preserved meat,
tallow, marked	" 14 bales of hide cuttings, 1500 tons (more or
E.F.	" less) of coal," &c. ( <i>as the case may be</i> ), marked and
400 tins pre-	numbered ( <i>if such is the fact</i> ) as per margin).
served meat	
marked A.K.	

2. And referring to the paper hereto annexed, marked \_\_\_\_\_, I further say that the same is a true copy, faithfully extracted from my original book of correspondence of the orders given by me for the shipment of the said goods, and that the same is in every respect true and genuine, and that the originals of the said letters annexed were duly transmitted by the mail to aforesaid.

3. And I further say, that I was regularly advised of the shipment of the said goods by \_\_\_\_\_ letters from my agent at \_\_\_\_\_, dated respectively \_\_\_\_\_ and \_\_\_\_\_, the originals whereof are also hereto annexed, marked L. and M.; and that the said last-mentioned letters are in like manner in all respects true and genuine, and were received by me in due course of post after the dates thereof, at aforesaid.

4. And I further say, referring to the papers hereto annexed, marked N., O., P., Q., that they are the true and original bills of lading and invoices referred to in the said letters, and that I have actually and *bond fide* paid the amount of the said invoices on my own account, without any fraud, collusion, or mental reservation whatever.

5. And I further say, that I have been informed and verily believe that the said ship in prosecution of her said voyage was captured by Her Britannic Majesty's ship \_\_\_\_\_, and carried into \_\_\_\_\_.

6. And I further say, that the said goods did belong to me, the said \_\_\_\_\_, at the time of lading the same and at the capture aforesaid, and do belong to me at this present time, and would have so belonged in case the said goods had not been seized and taken, and will belong to me in case the same shall be restored, and arrive and be unladen at the original and true port of destination, and until the said goods shall be sold and disposed of, for the sole account, risk, and benefit of me, the said \_\_\_\_\_.

7. And I further say, that neither the Government (*or, the King, or as the case may be*) of \_\_\_\_\_ (nor the King of \_\_\_\_\_), nor any person being a subject or inhabiting within any of the territories of the Government (*or King, &c., as before*) of \_\_\_\_\_ (*or, the King of* \_\_\_\_\_), nor their factors, agents, nor any person soever, other than this deponent, have, hath, or had, directly or

indirectly, any right, title, or interest in the said goods, at the said several periods of time, nor will have before the sale or disposal thereof for the sole account of me, the said

8. And I further say, that I was not at the time of the lading of the said goods, or at the time of the said capture, and am not at the present time, engaged in partnership in any house of trade belonging to any person or persons, or with any person or persons enemies of the Crown of Great Britain and Ireland, or residing within the territories of , or

9. And I further say, that the preceding declaration is actually true, without any fraud, collusion, or mental reservation.

Sworn, &c.

(Signed) A.B.

#### No. 19.

Rules 61  
and 264.

#### PRÆCIPE ON INSTITUTING PROCEEDINGS IN PRIZE SALVAGE.

No. .

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of

In Prize.

The , master.

I, J.K., solicitor, hereby institute a cause of prize salvage on behalf of (state the name, address, and description of the petitioner) against (if in rem, state the name and nature of the property proceeded against; if in personam, state the name, address, and description of the party to be cited) in the sum of (state the sum in letters) pounds. And I pray [if in rem, a warrant to arrest (state the name and nature of the property), or, if in personam, a monition against the said (state name and description of the party to be cited) citing him to appear in this cause]. And I consent that all instruments and other documents in the said cause may be left for me at (give an address as required by Rule 5).

Dated this day of

(Signed) J.K.

No. 20.

## WARRANT OF ARREST IN PRIZE SALVAGE.

Rules 61  
and 125.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

(L.S.)

Victoria, by the Grace of God, &amp;c., &amp;c.

To the marshal of the Court of , and  
to all and singular his substitutes, greeting :

Whereas a cause of prize salvage has been instituted in Our  
said Court on behalf of against the said ship  
(and her cargo). We therefore hereby command you to arrest the  
said ship (and her cargo), and to keep the same under  
safe arrest until you shall receive further orders from Us, and to  
cite all persons who have or claim to have any right, title, or  
interest in the said , to enter within six days from  
the service hereof (exclusive of the day of such service) in  
the Registry of Our said Court an appearance in the said cause.  
We further command you to warn all the said persons that if  
they do not enter an appearance as aforesaid, the Judge of  
Our said Court will proceed to determine the said cause, or  
make such order therein as to him shall seem right.

Given at , under the seal of Our said Court  
this day of .

Warrant.

E.F.,  
Registrar.

Taken out by

No. 21.

## MONITION IN PRIZE SALVAGE.

Rule 61.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

(L.S.)

Victoria, by the Grace of God, &amp;c., &amp;c.

To , greeting :

Whereas a cause of prize salvage has been instituted in Our  
Court of , against you, on behalf of .



We therefore hereby command you, the said  
to enter within six days from the service hereof (exclusive of  
the day of such service) in the Registry of Our said Court, an  
appearance in the said cause. And We hereby warn you that,  
if you do not enter an appearance as aforesaid, the Judge of  
Our said Court will proceed to determine the said cause, or  
make such order therein as to him shall seem right.

Given at \_\_\_\_\_, under the seal of Our said Court,  
this \_\_\_\_\_ day of \_\_\_\_\_.

*E.F.*,  
Registrar.

Monition in personam.

Prize salvage.

Taken out by \_\_\_\_\_

Rules 62  
and 124.

No. 22.

**AFFIDAVIT TO LEAD WARRANT IN PRIZE SALVAGE.**

(i.) *By Captors.*

No. \_\_\_\_\_

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of \_\_\_\_\_

In Prize.

The \_\_\_\_\_, master.

I, *A.B.* (insert name or names of captor), make oath and say  
as follows:—

1. I am a post captain (or as the case may be) in Her  
Majesty's Navy, and at the time herein-after mentioned was in  
command of Her Majesty's ship \_\_\_\_\_.

2. Her Majesty's said ship \_\_\_\_\_, when distant  
\_\_\_\_\_ miles from the coast of \_\_\_\_\_ (or, in or about long.  
\_\_\_\_\_ and lat. \_\_\_\_\_), recaptured the ship \_\_\_\_\_ (and her  
cargo) from the enemy, and the commander, officers, and crew of  
Her Majesty's said ship \_\_\_\_\_ are entitled to prize salvage  
in respect of such recapture.

(3. *If the recapture was made under circumstances of special  
difficulty or danger, set out such circumstances.*)

4. The said ship \_\_\_\_\_ after recapture was permitted  
by the said re-captors to prosecute her voyage.

5. The said ship \_\_\_\_\_ is now lying in the port of \_\_\_\_\_, within the jurisdiction of the Court, having completed her said voyage.

6. I have been informed and believe that the aid of this Court is necessary to obtain salvage reward for the aforesaid services.

Sworn, &c.

(Signed) A.B.

[*Note.—If the recapture was by a ship other than one of Her Majesty's ships, alter this affidavit accordingly, describing the re-captors as owners, master, and crew, or as the case may be.*]

(ii.) *By Ship's Crew.*

(*Heading as in Form (i.)*)

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Rules 62  
and 124.

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I, A.B., make oath and say as follows :—

1. I am chief officer of the said ship \_\_\_\_\_, now lying at the port of \_\_\_\_\_, within this jurisdiction, having been brought there in my charge.

2. The said ship \_\_\_\_\_ whilst on a voyage from \_\_\_\_\_ to \_\_\_\_\_, with a crew of \_\_\_\_\_ hands, and a cargo of \_\_\_\_\_, was captured by a \_\_\_\_\_ man of war, her master and \_\_\_\_\_ of her crew were taken out of her, a prize crew of \_\_\_\_\_ men were put on board of her, and her course was set by such prize crew for the enemy port of \_\_\_\_\_.

3. On the \_\_\_\_\_ day of \_\_\_\_\_ whilst so proceeding for the said port of \_\_\_\_\_, the British crew left on board her rose under my orders on the said prize crew, and after a severe fight lasting \_\_\_\_\_, succeeded in overpowering them and regained possession of the said ship.

4. A course was at once set for the port of \_\_\_\_\_, where the ship arrived without further accident.

5. The said ship is now within the jurisdiction of this Court, and I am informed and believe that the aid of this Court is necessary to obtain salvage reward for the said services.

Sworn, &c.

(Signed) A.B.

## No. 23.

Rule 62.      **AFFIDAVIT TO LEAD MONITION IN PRIZE SALVAGE, BY CAPTORS  
OR BY SHIP'S CREW.**

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

(If claim is by captors, insert §§ 1, 2, 3 as in Form 22 (i);  
if claim is by ship's crew, insert §§ 1, 2, 3, 4 as in Form 22 (ii);  
and proceed :—)

, the owner (or owners) of the said ship  
, is (or are) resident (or domiciled) at  
within the jurisdiction of this Court

Sworn, &amp;c.

(Signed) A.B.

[Note.—If the recapture was by a ship other than one of Her  
Majesty's ships, alter this affidavit accordingly, describing the  
re-captors as owners, master, and crew, or as the case may be.]

## No. 24.

Rule 64.      **APPEARANCE IN PRIZE SALVAGE.**

(i.) *By Owner or Party interested in the Ship or Cargo.*

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that I appear in this cause as owner of (or, if the  
appearance is by a party interested, describe the nature of the  
interest) the above vessel [or, of the cargo (or, of part of the  
cargo) of the above vessel].

Dated this                      day of

(Signed) A.B.

My address is

My address for service is

Take notice that I appear for *A.B. (insert address of A.B.)* the owner (*or, if the party interested, as the designation may be*) of the above vessel in this cause [*or, of the cargo (or, of part of the cargo) of the above vessel*].

My place of business is \_\_\_\_\_  
My address for service is \_\_\_\_\_

**Rule 65.**

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of

The \_\_\_\_\_, master.

I, A.B., of \_\_\_\_\_, one of the owners of the said ship \_\_\_\_\_, make oath and say as follows:—

That the value of the said ship is £                      or thereabouts,  
and of the cargo (now or) lately laden therein £                      , and  
that the gross value of the freight earned by the said ship on  
her voyage in which the salvage services are alleged to have  
been rendered to her, amounts to the sum of £                      or  
thereabouts, and that the expenses of earning such freight  
are                      (*set them out*).

(Signed) *A.B.*

## No. 26.

Rule 65.AGREEMENT OF VALUES OF SHIP, CARGO, AND FREIGHT IN  
A CAUSE OF PRIZE SALVAGE.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

We, the undersigned, solicitors for the owners of the ship  
(or, for , intervener, as the case may be),  
and solicitors for , the recaptors, the parties to this  
cause, do hereby agree the ship , and the cargo  
(now or) lately laden therein, and the freight due for the trans-  
portation thereof, being the ship, cargo, and freight proceeded  
against in this cause, to have been at the time of the salvage  
services in question, together of the value of £ (that  
is to say):—

	£	s.	d.
Value of ship - - -	-	-	-
Value of cargo - - -	-	-	-
Value of freight - - -	-	-	-
	£		

Dated this day of

J. and K.,  
Solicitors for owners.L. and M.,  
Solicitors for recaptors.

## No. 27.

Rules 76  
and 264.PRÆCIPE INSTITUTING CAUSE OF JOINT CAPTURE OR  
RECAPTURE.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

I, J.K., solicitor, hereby institute a cause of joint capture (or  
recapture) on behalf of (state name, address, and  
description of alleged joint captor) as joint captor (or recaptor)

of the said ship and her cargo, and entitled to share in the proceeds thereof (or, the salvage awarded in respect thereof) against *(state the name, address, and description of the actual captor or other party to be cited)* (and if the cause is instituted after condemnation or adjudication in prize salvage add), and I pray a monition against the said *(state the name of the party to be cited)*, citing him to appear in this cause. And I consent that all instruments and other documents in the said cause may be left for me at *(give an address as required by Rule 5)*.

Dated this            day of            .

(Signed)            J.K.,  
Solicitor for the Petitioner.

No. 28.

APPEARANCE IN JOINT CAPTURE.

Rule 76.

No.            .

In the Vice-Admiralty (or the Supreme or other Court, having prize jurisdiction) Court of  
In Prize.

The            ,            , master.

Take notice that I appear in this cause as respondent.

Dated this            day of            .

(Signed)            C.D.,  
Respondent.

My address is            .

My address for service is            .

*(Or, if appearance is by solicitor for respondent:)*

Take notice that I appear for C.D., of            *(insert address of C.D.)*, the respondent in this cause.

(Signed)            L.M.,  
Solicitor for C.D.

My place of business is            .

My address for service is            .

## No. 29.

Rule 76. MONITION TO SHOW CAUSE IN CASE OF JOINT CAPTURE AND  
RECAPTURE.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

(L.S.)

Victoria, by the Grace of God of the United Kingdom of Great  
Britain and Ireland Queen, Defender of the Faith, Empress of  
India.

To (fill in the names of the persons originally  
claiming as captors or recaptors), greeting:

Whereas a cause of joint capture (or recapture) has been  
instituted in Our said Court against you on behalf of  
(insert the name of the persons claiming, as, e.g., A.B., the com-  
mander, and the crew of H.M. (or the) ship ),  
asserting a claim to be pronounced joint captors (or recaptors)  
with you of the said ship , and the goods, wares, and  
merchandise laden on board of her (or, of the goods, wares, and  
merchandise ex the said ship ), and to share in the  
proceeds thereof (or, in the salvage payable in respect thereof).

We therefore command you, the said , to enter,  
within six days from the service hereof (exclusive of the day of  
such service) in the Registry of Our said Court, an appearance  
in the said cause. And we hereby warn you that if you do not  
enter an appearance as aforesaid, the Judge of Our said Court  
will proceed to determine the said cause and make such order  
therein as to him shall seem right.

Given at in Our said Court, under the seal thereof  
this day of , 18 .

Registrar.

Monition in joint capture (or recapture).

Taken out by

## No. 30.

## ADMISSION IN JOINT CAPTURE OR JOINT RECAPTURE.

Rule 78.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The

, master.

*Admission.*

I, *L.M.*, solicitor for the respondents in the above cause, admit  
that Her Majesty's ship , and the commander, officers,  
and crew thereof (or such persons as may be entitled) are  
entitled to share as joint captors (or recaptors) in the ship  
(and her cargo).

Dated this      day of

(Signed) *L.M.*,  
Solicitor.

## No. 31.

## PRÆCIPE FOR MONITION IN PRIZE BOUNTY.

Rules 90  
and 264.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The

, master.

I, *J.K.*, solicitor for the applicants (*insert names of applicants*),  
pray a monition against (*insert name and title of proper  
officer of the Crown*) to appear and show cause why the said  
applicants should not be declared entitled to prize bounty in  
respect of the armed ship , and I consent  
that all instruments and other documents in the said cause may  
be left for me at (*give an address as required by Rule 5*).

Dated this      day of

(Signed) *J.K.*,  
Solicitor for the Applicants.



No. 32.

Rule 90.

## MONITION IN PRIZE BOUNTY.

No. . .

In the Vice-Admiralty (*or the Supreme or other Court having prize jurisdiction*) Court of

In Prize.

(L.S.)

The , master.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India.

To the marshal of the Court of ,  
and to all and singular his substitutes, greeting :

Whereas (in a cause instituted for the condemnation of the armed ship ) (*or, in the matter of the taking or destroying of the armed ship* ) application is about to be made for a decree of prize bounty on behalf of (*insert names of applicants*). We command you to monish and cite (*insert the name and title of the proper officer of the Crown*) to enter, within days, an appearance in Our said Court, and to show cause why a decree or order should not be made declaring the title of (*insert names of applicants*) to prize bounty in respect of the taking (*or destroying*) of the armed ship , and stating the amount thereof.

We further command you to warn the said that if he does not enter an appearance or show cause as aforesaid, the Judge of Our said Court will proceed to hear and determine the said application, and make such order therein as to him shall seem right.

Given at under the seal of Our said Court,  
this day of .

E.F.,  
Registrar.

Monition to show cause in prize bounty.

Taken out by . . .

## No. 33.

**SUMMONS FOR PARTICULARS WHERE MISCONDUCT OF CAPTORS** Rule 92.  
**ALLEGED.**

No.

In the Vice-Admiralty (or the Supreme or other Court having  
*prize jurisdiction*) Court of

In Prize.

The , master.

Let all parties concerned attend the Judge in chambers on  
the day of , at o'clock .m.,  
on the hearing of an application on the part of that  
*(insert the name of party complaining)* do, within days,  
deliver to *(the party complained of)* particulars in writing of  
*(the offence, breach, or act complained of)*, and that  
*(the party complaining)* do pay the costs of and occasioned  
by this application.

Dated this day of

This summons was taken out by , of ,  
solicitor for

To

## No. 34.

**ORDER FOR PARTICULARS WHERE MISCONDUCT OF CAPTORS** Rule 92.  
**ALLEGED.**

No.

In the Vice-Admiralty (or the Supreme or other Court having  
*prize jurisdiction*) Court of

In Prize.

Judge.

The , master.

Upon hearing , and upon reading the affidavit  
of , filed the day of ,  
it is ordered that *(insert name of party complaining)* do,  
within days, deliver to *(the party complained of)* an  
account in writing of the particulars of *(the offence, breach, or*  
*act complained of)* alleged in *(state pleading or document*

where allegation contained), together with the time and place thereof (and the injuries, if any, sustained thereby), and that unless such particulars be delivered within \_\_\_\_\_ days from the date of this order, such allegation of \_\_\_\_\_ be struck out of the said \_\_\_\_\_, and be deemed to be of no effect or avail in this cause (or upon such other terms as to the Judge shall seem fit), and that the costs of this application be \_\_\_\_\_.

Dated this            day of

(Signed) *H.R.*,  
Judge (or *E.F.*, Registrar).

**No. 35.**

### Rule 92.

## PARTICULARS OF OFFENCES AGAINST LAW OF PRIZE.

No.

In the Vice-Admiralty (or, the Supreme or other Court having prize jurisdiction) Court of \_\_\_\_\_.

## In Prize.

**The \_\_\_\_\_, master.**

The following are the particulars of the offences against the law of prize alleged by \_\_\_\_\_, claimant of the ship (or, the cargo of the ship \_\_\_\_\_) in (document or *pleading in which alleged*) delivered pursuant to the order of the Judge, dated the \_\_\_\_\_ day of \_\_\_\_\_.

1. (Set out the offences, breaches, or acts complained of, in full detail.)
2. (Set out the times and places of such offence, &c.)
3. (Set out the injury sustained thereby.)

(Signed) *L.M.*,  
Solicitor for the Claimant.

To

Dated this            day of

## No. 36.

## NOTICE OF MOTION IN PRE-EMPTION.

Rule 94.

No.

In the Vice-Admiralty (or, the Supreme or other Court having prize jurisdiction) Court of

In Prize.

The , master.

Take notice that on , the day of or so soon thereafter as counsel can be heard, the Judge will be moved by , on behalf of the Lords of the Admiralty, for an order that the stores on board the ship be appraised by the marshal and by him sold to the Admiralty.

Dated this day of

(Signed) *L.M.*,  
Solicitor for the Admiralty.

To (the owner of the stores in question, or his agent, as the case may be).

## No. 37.

## AFFIDAVIT IN CASE OF PRE-EMPTION.

Rule 94.

In the Vice-Admiralty (or, the Supreme or other Court, having prize jurisdiction) Court of

In Prize.

The , master.

I, *S.T.*, make oath and say:—

1. The ship is a vessel belonging to , a subject of

2. On the day of , the said ship whilst passing the seas laden with (naval or victualling, as the case may be) stores (or, a cargo of ) intended to be carried to (insert name of the port of the enemy to which the stores or cargo were being carried), a port of an enemy of Her Majesty, was taken by H.M. ship , commander, and brought into the port of

3. I am informed and believe that the purchase of the said stores (or cargo) on board the said ship , for the service

of Her Majesty, appears to the Lords of the Admiralty expedient, without the condemnation thereof in Her Majesty's Prize Court, and I am authorised to purchase the same on their behalf.

Sworn, &c.

(Signed) S.T.,  
Agent for the Lords of the Admiralty.

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No. 38.

Rules 94  
and 109.

ORDER FOR APPRAISEMENT AND SALE IN PRE-EMPTION.

No. .

In the Vice-Admiralty (*or, the Supreme or other Court having prize jurisdiction*) Court of

In Prize.

The , master.

The Judge having heard the affidavit of read, and counsel (*or, the solicitor*) for the Lords of the Admiralty, and counsel (*or the solicitors for the captors and claimants respectively*), ordered and decreed that the goods and stores (*or state which of them*) on board the ship be appraised by the marshal and be sold by him to the Lords of the Admiralty at the appraised value thereof, and that the proceeds of sale be paid into Court for the benefit of the persons who should be held entitled thereto, and reserved the adjudication of the said cargo (*or stores*), and further reserved all questions as to freight, costs, and expenses.

Dated this day of

(Signed) E.F.,  
Registrar.

[NOTE.—*The form of this Order as to costs and freight will follow the actual directions of the Judge in each case.*]

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## No. 39.

## PLEADINGS.(a)

## Rule 97.

## (i.) PLEADINGS IN PROCEEDINGS FOR CONDEMNATION.

The Naval  
Prize Act,  
1864, s. 21.

*Petition on behalf of Claimant on further Proof.*

No. .

In the Vice-Admiralty (or, the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

*Petition.*

*J.K.*, solicitor for the claimants *A.B.*, *C.D.*, and *E.F.*, says as follows:—

1. The owners of the above-named ship are *A.B.*, *C.D.*, and *E.F.* The said *A.B.* resides at and is a subject of . The said *C.D.* resides at and is a subject of . The said *E.F.* resides at and is a subject of .

2. On the day of , the said *A.B.* purchased the said ship from *G.H.*, of , a subject of , who assigned the said ship to the said *A.B.* by bill of sale dated the day of .

3. Prior to such assignment, the said ship was named the , and immediately thereafter the said *A.B.* changed the name of the said ship to that of the , and such change of name was duly entered at .

4. Immediately after such purchase and assignment, the said *A.B.*, by bill of sale dated the day of , assigned shares in the said ship to the said *C.D.*, and, by bill of sale dated the day of , shares therein to *E.F.*, and on the day of , the said ship was duly registered in the names of the said *A.B.*, *C.D.*, and *E.F.* at , and a certificate of registry, dated the day of , was issued by , whereby it appears that the said *A.B.*, *C.D.*, and *E.F.* are the owners of the said ship, and they were at the time of such registration, and still are, the owners thereof.

5. On the day of , the said ship loaded at a cargo of , and subsequently sailed therewith on a voyage from aforesaid bound to .

(a) Note.—These Pleadings are given as examples only, and the forms should be adapted to the facts of each particular case.

6. The said cargo consisted of (*describe the cargo, giving numbers, weight, &c., as in form of claim, ante No. 7 (i.)*), and was on the account and risk of , who are merchants carrying on business at , and are subjects of , and upon the account and risk of no other person whatsoever.

7. Whilst upon the voyage aforesaid, the said ship was seized and taken as prize by , and although all the ship papers relating to the said ship and the said cargo were shown to the captors, she was brought into the port of for adjudication.

8. There were at the time of such seizure no contraband goods on board the said ship, and no subject of (*insert the name of Government at war with Great Britain*) or enemy of Great Britain had at the time of such seizure, or at any other time material to the matters in this cause, any share, right, title, or interest in the said ship or cargo, or any part thereof.

9. There was no just ground for the seizure and capture and bringing in of the said ship.

The said *J.K.* prays that the Judge will decree restitution of the said ship to the said *A.B.*, *C.D.*, and *E.F.*, with damages and costs.

[*Or, if bail has been given, that the Judge will pronounce that the bail given on behalf of the said claimants to answer the value of the said ship (and goods) may be released and discharged, and that the said (insert names of captors) may be condemned in the damages and costs sustained by and occasioned to the said claimants by reason of such seizure, capture and bringing in.*]

(Signed) *W.X.*,  
Counsel (or Party).

Delivered this            day of            .

*Answer.*

(*Heading as in Petition above.*)

*Answer.*

The Naval  
Prize Act,  
1864, s. 21.

*L.M.*, solicitor for the commander, officers, and crew of Her Majesty's ship , the captors of the said ship , in answer to the petition of the claimants, says as follows:—

1. The said ship            and her cargo were seized and taken as prize and brought in for adjudication by the captors under the circumstances herein-after described.

2. On the            day of            , Her Majesty's ship            was cruising off            , when the said ship            came into sight and was signalled and duly

boarded by a boat from the , and the ship, papers and documents and the cargo of the were duly inspected and examined.

3. Upon one of the bulkheads, and on one of the boats of the said ship , was found a name (the ), which was not the present name of the ship, and the name of the port of , which is in enemy's territory, and upon inquiry of the master of the said ship, it appeared that the said ship immediately prior to the purchase by her present owners, and to the existing war, had been owned by , a firm carrying on business at the said port of , in enemy's territory, and that the said master had been in command of the said ship whilst she belonged to the said firm.

4. On receiving such information, the captors brought in the said ship for adjudication upon the suspicion that the sale and transfer of the said ship to the present alleged owners was not *bona fide*, and that she still belonged to her former enemy owners.

5. The transfer and assignment of the said shares in the said ship by A.B. to the claimants C.D. and E.F. in the petition alleged took place as therein alleged, but at the time of such transfer the said A.B. was a member of the said firm of , carrying on business as aforesaid, and the transfer and assignment of the said shares was made and executed by the said A.B. as agent of the said firm, and was a mere colourable and fraudulent transfer to cover the enemy character of the said ship, and the said ship at the time of capture and seizure remained the property, and was navigated for the account and at the risk of the said firm of , and was in fact enemy property.

*(If the cargo or any part thereof was enemy property, allege it, stating the alleged ownership thereof; or if the cargo or any part thereof was contraband, allege it.)*

6. Save as aforesaid the respondents deny all and every the allegations in the petition contained.

And the said L.M. prays the Judge to pronounce that the said ship (and her cargo) were at the time of capture and seizure property of enemies of the Crown of Great Britain, or otherwise liable to condemnation, and to condemn the same as lawful prize to the captors, or to pronounce for just cause of capture and seizure.

(Signed) Y.Z.,  
Counsel (or Party).

Delivered this            day of            .



*Reply.**(Heading as in Petition.)**Reply.*

The Naval  
Prize Act,  
1864, s. 21.

*J.K.*, solicitor for the claimants, in reply to the answer of the captors, denies the allegations therein contained, save in so far as the same consist of admissions.

(Signed) *W.X.*,  
Counsel (*or Party*).

Delivered this                      day of                      .

Rule 58.

## (ii.) PLEADINGS IN PRIZE SALVAGE.

*Petition alleging Special Difficulty or Danger.**(Heading as in Form (i).)**Petition.*

*J.K.*, solicitor for *A.B.*, commander, and the officers and crew of Her Majesty's ship                      , the recaptors of the above-named ship, the petitioners, says as follows:—

1. The recaptors are the commander, officers, and crew of Her Majesty's ship                      , which is a cruiser of the second class (*or as the case may be*) armed with                      , and carrying a crew of                      hands all told, and with engines of                      horse-power nominal.

2. On the                      day of                      , at about 11 a.m., Her Majesty's said ship was proceeding from                      to                      in pursuance of her instructions to cruise off the coast of                      and to assist and protect British vessels whilst passing such coast. At such time as aforesaid it was blowing a heavy gale from the                      and the weather showed no signs of improvement.

3. Whilst proceeding as aforesaid, those on board the                      sighted a steamship, appearing to be a British mail steamer, steaming to the                      on about an opposite course to the                      . Signals were at once made to the said steamship, which proved to be the                      of                      but no answer was made, and although a gun was fired, the                      altered her course and proceeded in towards the coast of                      , apparently making for the port of                      in enemy's territory.

4. The recaptors having thereon reason to believe that the                      was in possession of the enemy, immediately altered the course of the                      and chased the                      , gradually gaining upon her.

5. After        hours' chase the        and the  
 had come within 10 miles of the coast of        , and the  
       was about half a mile astern of the said        .  
 At this time it was seen that an enemy war ship was coming  
 out of the said port of        , and thereupon extra steam  
 was raised on the        and she succeeded in getting between  
 the said        and the entrance to the said port, and forced  
 her to alter her course to seaward.

6. The said enemy war ship, which proved to be the  
 of        guns, and to be carrying a crew of        hands, came on,  
 and with the assistance of some torpedo boats which were  
 following her engaged the        , but after a fierce engage-  
 ment, lasting about half an hour, the said enemy war ship was  
 beaten off and returned to the port of        with the  
 torpedo boats, whereupon the said        surrendered to  
 the recaptors, and the prize crew in charge of her having been  
 taken on board the        , and a prize crew from the  
       having been put on board the        , the two  
 vessels in company proceeded towards        and the  
       was brought in safety into        , where she  
 now lies.

7. At the time of the said engagement, Her Majesty's said  
 ship was close to the island of        , and owing to the gale  
 and the dangerous nature of the coast she ran great risk of  
 being driven on the rocks in manœuvring during the said  
 engagement, and the lives of the recaptors were thereby exposed  
 to great risk and danger. In the said engagement the  
 had        men killed and        men wounded, including        officers.

8. By reason of the premises the        and her cargo were  
 saved from condemnation as prize to the enemy under circum-  
 stances of special difficulty and danger.

The said *J.K.* prays the Judge to award to the recaptors one-  
 fourth of the value of the said        and her cargo, or such  
 other sum as to the Judge shall seem just, and costs.

(Signed)        *W.X.*,  
                                 Counsel (*or Party*).

Delivered this .    day of        .

*Answer.*

(*Heading as in Form (i.)*)

*Answer.*

*L.M.*, solicitor for *C.D.*, the owner (and claimant) of the said  
 ship, and *F.G.*, owner of the cargo thereof, respondents, in answer  
 to the petition of the recaptors says as follows:—

1. The respondents admit that the said ship and her cargo  
 were recaptured from the enemy by the recaptors, but deny that

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Rule 58.

---

the recapture thereof was made under circumstances of special danger or difficulty entitling the recaptors to a larger part of the value of the said ship and cargo than one-eighth part.

2. The respondents do not admit that Her Majesty's said ship was at the time of such recapture engaged in protecting British ships as alleged. At the said time, Her Majesty's said ship was engaged, in conjunction with other vessels, in watching the said port of , and in endeavouring to intercept and capture the said enemy's ship of war the , and for such purpose was endeavouring to entice her out of the said port and bring about an engagement with her, and the fact that the said mail steamer the made for such port in fact brought about the engagement so wished for and intended, and such engagement was not brought about and did not happen merely for the purpose of the recapture of the said ship, but took place in the ordinary course of duty and under the express instructions given to Her Majesty's said ship.

The said *L.M.* prays the Judge to pronounce that the recaptors are entitled to one-eighth of the value of the said ship and her cargo, and no more, and to condemn the recaptors in the costs of and occasioned by their claim for a larger sum.

(Signed) *Y.Z.*,  
Counsel (or Party).

Delivered this      day of

---

**Rule 58.**

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*Reply.*

(Heading as in Form (i).)

*Reply.*

*J.K.*, solicitor for the petitioners, in reply to the answer of the respondents, denies the allegations in the said answer contained, save in so far as the same consist of admissions.

(Signed) *W.X.*,  
Counsel (or Party).

Delivered this      day of

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**Rule 76.**

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(iii.) PLEADINGS IN JOINT CAPTURE OR RECAPTURE.

*Petition.*

(Heading as in Form (i).)

*Petition.*

*J.K.*, solicitor for the petitioners, says as follows:—

1. The petitioners are the commander, officers, and crew of Her Majesty's ship

2. On the       day of       , Her Majesty's said ship sailed in company with and under the order of Her Majesty's ship       , and under such order and in such company was cruising off the coast of       (or describe position at the time).

3. About (state hour) on the said day, a steamship was sighted bearing about       , and signals were made by Her Majesty's ship       to chase, and Her Majesty's said ships both steamed after the said steamship.

(Set out in separate paragraphs the circumstances founding a right of joint capture or recapture, commencing by adapting the above paragraphs to the facts of the case, and conclude:)

And the said J.K. prays that the Judge will pronounce that Her Majesty's said ship       is a joint captor (or recaptor) of the said ship       (and her cargo), and as such entitled to share therein.

(Signed)       X.Y.,  
Counsel (or Party).

Delivered this       day of       .

Answer.

Rule 78.

(Heading as in Form (i).)

Answer.

L.M., solicitor for the respondents, in answer to the petition of the petitioner, says as follows:—

1. The respondents are the commander, officers, and crew of Her Majesty's (or the) ship       .

2. About 7 a.m. (set out in short paragraphs the facts upon which the respondents rely to show that they were the sole captors).

3. The respondents deny that the petitioners were in sight at the time of the said capture (or, assisted in making the said capture, or as the case may be).

And the said L.M. prays that the Judge will pronounce that the prize was taken solely by the       (respondent's ship), and that the       (petitioners' ship) was not aiding, or that the       (petitioners' ship) was not present, or in sight of or adding to the encouragement of the said capture or the terror of the enemy, and was not acting in concert with the       (respondent's ship) in the said chase, or assisting in the said capture.

(Signed)       Y.Z.,  
Counsel (or Party).

Delivered this       day of       .

*Reply.**(Heading as in Petition.)**(Follow the Form in Prize Salvage.)***Rule 220.****(iv.) PLEADINGS IN OBJECTION TO REGISTRAR'S REPORT.***Petition.**(Heading as in Form (i).)**Petition.*

*J.K.*, solicitor for the claimants (or captors), *A.B.*, &c., in objection to the report of the registrar filed in this cause, says as follows:—

1. This cause was instituted by the said captors for the condemnation of the said ship (and her cargo), but on the                      day of                      , the Judge by his decree ordered the said ship (and her cargo) to be restored to the claimant with costs and damages, and directed a reference to the registrar to assess the amount of the damages, and to report thereon.

2. On the                      day of                      , the registrar made his report, which is set out hereunder, marked A.

3. The claimants (or the captors) object to items (*set out the numbers of the items objected to*) as allowed in the said report.

4. The ground of objection to item No.                      is (*set out the ground shortly*).

5. The ground of objection to item No.                      is (*set out the grounds shortly and proceed in a similar manner as to each item objected to*).

6. The claimants (or captors) further submit that the report is erroneous, in so far as it purports to allow the costs of the captors (or claimants).

The said *J.K.*, therefore, prays the Judge to order the report to be amended in respect of the items and matters so objected to, and to condemn the captors (or claimants) in the costs of and occasioned by the said objections.

(Signed)                      *W.X.*,  
Counsel (or Party).

Delivered this                      day of                      .

*Answer.*Rule 220.*(Heading as in Form (i).)**Answer.*

*L.M.*, solicitor for the captors (*or* claimants) in answer to the petition in objection to the registrar's report, says as follows :—

1. The said report is correct, and ought to be confirmed, for the reasons stated therein.

2. The facts stated in paragraph \_\_\_\_\_ of the petition are untrue.

3. (*Allege new facts or reasons, if any, which will support the report.*)

And the said *L.M.* therefore prays the Judge to overrule the objections raised in the said petition to confirm the said report, and to condemn the claimants (*or* captors) in the costs of these proceedings.

(Signed) *Y.Z.*,  
Counsel (*or* Party).

Delivered this \_\_\_\_\_ day of \_\_\_\_\_

*Reply.*Rule 220.*(Heading as in Form (i).)**Reply.*

*J.K.*, solicitor for the claimants (*or* captors), in reply to the answer of the captors (*or* claimants), denies the statements therein contained.

(Signed) *W.X.*,  
Counsel (*or* Party).

Delivered this \_\_\_\_\_ day of \_\_\_\_\_

No. 40.

AFFIDAVIT OF DISCOVERY.

Rule 103.

No. \_\_\_\_\_

In the Vice-Admiralty (*or* the Supreme *or* other Court having prize jurisdiction) Court of \_\_\_\_\_

In Prize.

The \_\_\_\_\_, master.

I, *A.B.*, the (petitioner, claimant, *or* as the case may be), make oath and say as follows :—

1. I have in my possession or power the documents relating to the matters in question in this cause, set forth in the first and second parts of the first schedule hereto.

2. I object to produce the documents set forth in the second part of the first schedule on the ground that [*state grounds of objection and verify the facts as far as may be*].

3. I have had, but have not now, in my possession or power the documents relating to the matters in question in this cause set forth in the second schedule hereto.

4. The last-mentioned documents were last in my possession or power on

5. [*State what has become of the last-mentioned documents and in whose possession they now are.*]

6. According to the best of my knowledge, information, and belief, I have not now, and never had, in my possession, custody, or power, or in the possession, custody, or power of my solicitor or agent, or of any other person or persons on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper or writing, or any copy of or extract from any such document, or any other document whatsoever, relating to the matters in question in this cause, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the said first and second schedules hereto.

#### SCHEDULE No. I.

##### PART 1.

[*Set out documents.*]

##### PART 2.

[*Set out documents.*]

#### SCHEDULE No. II.

[*Set out documents.*]

Sworn, &c.

(Signed) A.B.

#### No. 41.

#### Rule 104.

#### NOTICE TO PRODUCE FOR INSPECTION OR TRANSCRIPTION.

No.

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of

In Prize.

Take notice that the (petitioner, claimant, or as the case may be) requires you to produce for his inspection (or, for transcrip-

tion by him), on or before the                      day of                      ,  
the following documents:—

[*Here briefly describe the documents required to be produced.*]

Dated this                      day of                      .

(Signed)                      J.K.,  
Solicitor for the petitioner (or  
as the case may be).

To C.D. (or L.M., solicitor for the)  
respondent (or as the case  
may be).

No. 42.

ORDER TO PRODUCE FOR INSPECTION AND TRANSCRIPTION. Rule 105.

No.                      .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

, Judge.

The                      , master.

Upon hearing                      , and upon reading the affidavit of  
                    , filed the                      day of                      :

It is ordered that the                      do at all seasonable times,  
on reasonable notice, produce at (*insert place of inspection*),  
situate at                      , the following documents, namely,                      ,  
and that                      be at liberty to inspect and peruse the  
documents so produced, and to take copies and extracts therefrom,  
at                      expense, and (*if the order is made on*  
*petitioners in prize salvage or joint capture*) that in the mean-  
time all further proceedings be stayed (*or if made on respondents*  
that the answer of the respondents be struck out, *or as the case*  
*may be*), and that the costs of this application be

Dated this                      day of                      .

(Signed)                      E.F.,  
Registrar.



## No. 43.

Rule 106.

## NOTICE TO PRODUCE.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that you are hereby required to produce and show to the Court on the trial of this cause all logs, ship papers, letters, copies of letters, and other writings and documents in your custody, possession, or power, containing any entry, memorandum, or minute relating to the matters in question in this cause, and particularly (*specify or describe the documents particularly required*).

Dated this day of

(Signed) J.K.,  
Solicitor for the petitioner (or  
as the case may be).

To C.D. (or L.M., solicitor for the)  
respondent (or as the case  
may be).

## No. 44.

Rule 112.

## ORDER TO MARSHAL FOR SURVEY.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

The Judge having, by his order (or decree) dated the  
day of , directed that [*state whether ship or goods,  
state name of ship, and if part only of cargo, what part*] be  
surveyed.

It is hereby ordered that you choose two good and lawful men, well experienced in such affairs, and indifferent to the parties in the cause, and swear them faithfully and justly to

survey the dimensions (or as the case may be) of the said ship (or, cargo of the said ship, or, if part of the cargo, describe the goods to be surveyed), and the same being so surveyed, that they make their report thereof; and that, as soon as such report has been reduced into writing, and signed by you and the said surveyors, you file the said report and your accounts, and the vouchers in support thereof, together with this order:

Dated this                      day of                      .  
(Signed)                      *E.F.*,  
   Registrar.

To the marshal of the Court of

**No. 45.**

### ORDER TO MARSHAL FOR REMOVAL.

**Rule 112.**

No.

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of \_\_\_\_\_.

### In Prize.

**The \_\_\_\_\_, \_\_\_\_\_, master.**

The Judge having, by his order (or decree) dated the day of \_\_\_\_\_, directed that [state whether ship or cargo, and name of ship, and if part only of cargo, what part] be removed from \_\_\_\_\_ to \_\_\_\_\_ :

It is hereby ordered that you cause the said ship to be removed accordingly, and further that, as soon as the removal has been completed, you file a certificate thereof, signed by you, and your accounts and vouchers in support thereof, together with this order.

Dated this                      day of                      .  
(Signed)                      *E.F.*,  
   Registrar.

To the marshal of the Court of

## No. 46.

Rule 112.

## ORDER TO MARSHAL FOR APPRAISEMENT.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

The Judge having, by his order (or decree) dated the  
day of directed that [*state whether ship or cargo,*  
*and state name of ship, and if part only of cargo, what part*]  
be appraised :

It is hereby ordered that you reduce into writing an inven-  
tory of the said [*ship or cargo, or as the case may be*], and,  
having chosen one or more experienced person or persons, that  
you swear him or them to appraise the same according to the  
true value thereof, and, the same being so appraised, that you  
cause him or them to make his or their certificate of such value,  
and that as soon as such certificate has been reduced into writing  
and signed by you, and by the said appraiser or appraisers, you  
file the said certificate and your accounts, and the vouchers in  
support thereof, together with this order.

Dated this day of

(Signed) E.F.,  
Registrar.

To the marshal of the Court of

## No. 47.

Rule 112.

## ORDER TO MARSHAL FOR SALE.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

The Judge having, by his order or decree dated the  
day of , directed that [*state whether ship or*  
*cargo, and state name of ship, and if part only of cargo, what*  
*part*] be sold :

It is hereby ordered that you reduce into writing an inventory  
of the said (ship or cargo, or as the case may be), and cause the

said to be sold by public auction for the highest price that can be obtained for the same; and further, that as soon as the sale has been completed, you pay the gross proceeds arising therefrom into Court, and file an account sale, signed by you, and the vouchers in support thereof, together with this order.

Dated this                      day of

(Signed)                      E.F.,  
Registrar.

To the marshal of the                      Court of

No. 48.

ORDER TO THE MARSHAL FOR APPRAISEMENT AND SALE.

Rule 112.

No.

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of

In Prize.

The                      , master.

The Judge having, by his order or decree dated the day of                      , directed that [*state whether ship or cargo, and state name of ship, and if part only of cargo, what part*] be appraised and sold:

It is hereby ordered that you reduce into writing an inventory of the said [*ship or cargo, or as the case may be*], and having chosen one or more experienced person or persons, that you swear him or them to appraise the same according to the true value thereof, and, the same being so appraised, that you cause him or them to make his or their certificate of such value, and that as soon as such certificate has been reduced into writing and signed by you and by the said appraiser or appraisers, you cause the said [*ship or cargo, or as the case may be*] to be sold by public auction for the highest price, not under the appraised value thereof, that can be obtained for the same.

And it is further ordered, that as soon as the sale has been completed you pay the gross proceeds arising therefrom into Court, and file the said certificate of appraisement and an account sale, signed by you, and the vouchers in support thereof, together with this order.

Dated this                      day of

(Signed)                      E.F.,  
Registrar.

To the marshal of the                      Court of

## No. 49.

Rule 112.

## ORDER TO MARSHAL FOR UNLADING AND WAREHOUSING.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

The Judge having, by his order or decree dated the  
day of , directed that the goods on board the  
ship be unladen, inventoried, and warehoused :

It is hereby ordered that you unlade the said goods, and,  
having reduced into writing an inventory of the said goods, that  
you warehouse the same in some fit and proper place of deposit.  
And it is further ordered, that as soon as the unlading, inven-  
torying, and warehousing of the said goods has been completed,  
you file your certificate thereof, with the said inventory, and  
your accounts and the vouchers in support thereof, together  
with this order.

Dated this day of

(Signed) E.F.,  
Registrar.

To the marshal of the Court of .

## No. 50.

Rule 112.

## BILLS OF SALE BY MARSHAL.

(i.) *Of Foreign Ship.*

Know all men by these presents that I, ,  
marshal of  
Court of , pursuant to the decree of the  
said Court, bearing date the , and in obedience to and  
by virtue of an order to me addressed by the said Court, bearing  
date the , and for and in consideration of the sum of  
pounds of lawful money of Great Britain to me in hand  
at or before the ensealing and delivery of these presents well and  
truly paid, the same being the highest sum which was bid by  
at a public auction held on the  
day of one thousand ,  
and the receipt of which sum I do hereby acknowledge, by

these presents do fully, freely, and absolutely sell, assign, and set over unto the said \_\_\_\_\_ executors, administrators, and assigns, the entirety of the foreign or vessel called the \_\_\_\_\_, now lying

: To have and hold the said foreign or vessel called the \_\_\_\_\_ unto the said \_\_\_\_\_ executors, administrators, and assigns, to \_\_\_\_\_, their own use and uses, and as their own proper goods and chattels, from henceforth for ever. And I, the said \_\_\_\_\_, marshal of the \_\_\_\_\_ Court of \_\_\_\_\_, do hereby covenant, promise, and agree, to and with the said \_\_\_\_\_ executors, administrators, and assigns in manner following; that is to say, that at the time of ensealing and delivery hereof, I have, in and by the order aforesaid, good right, full power, and lawful authority to sell, assign, and set over the premises unto the said \_\_\_\_\_ executors, administrators, and assigns, in manner and form aforesaid. And that the said premises, and every part thereof, now are and so from henceforth for ever shall be, remain and continue unto the said \_\_\_\_\_ executors, administrators, and assigns.

In witness whereof I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand \_\_\_\_\_.

(L.S.)

Marshal.

Signed, sealed, and delivered by the said \_\_\_\_\_ in the presence of \_\_\_\_\_.

(ii.) *Of British Ship.*

Know all men by these presents that I, \_\_\_\_\_, marshal of the \_\_\_\_\_ Court of \_\_\_\_\_, pursuant to the decree of the said Court, bearing date the \_\_\_\_\_, and in obedience to and by virtue of an order to me addressed by the said Court, and bearing date the \_\_\_\_\_ day of \_\_\_\_\_, and for and in consideration of the sum of \_\_\_\_\_ pounds of lawful money of Great Britain, to me in hand at or before the ensealing and delivery of these presents well and truly paid, the same being the highest sum which was bid by \_\_\_\_\_ at a public auction held on the \_\_\_\_\_ day of \_\_\_\_\_ one thousand \_\_\_\_\_, and the receipt of which sum I do hereby acknowledge, by these presents do fully, freely, and absolutely sell, assign, and set over unto the said (*insert name of buyer*), executors, administrators, and assigns, sixty-four sixty-fourth parts or shares, being the entirety of the \_\_\_\_\_ or vessel

called the now lying  
which said or vessel is more particularly  
mentioned and described as follows :—

Official No.	Name of Ship.	Number, Date, and Port of Registry.

Number, Date, and Port of previous Registry (if any).

Whether British or Foreign Built.	Whether a Sailing or Steam Ship; and if a Steam Ship, how propelled.	Where Built.	When Built.	Name and Address of Builders.

Number of decks -	Head - -	Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern-post - Length at quarter of depth from top of weather deck at side amidships to bottom of keel - Mainbreadth to outside of plank - Depth in hold from tonnage deck to ceiling at midships Depth in hold from upper deck to ceiling at midships in the case of three decks and upwards - Depth from top of beam amidships to top of keel - Depth from top of deck at side amidships to bottom of keel - Round of beam - Length of engine room, if any	Feet. Tenths.
Number of masts -	Framework and description of vessel - -		
Rigged - - -			
Stern - - -	Number of bulk-heads - -		
Build - - -			
Galleries - - -	Number of water ballast tanks, and their capacity in tons -		

PARTICULARS OF DISPLACEMENT.

Total to quarter the depth from weather deck at side amidships to bottom of keel      tons.  
Ditto per inch immersion at same depth      tons.

PARTICULARS OF ENGINES (if any).

No. of Engines.	Description.	Whether British or Foreign made.	When made.	Name and Address of Makers.	No. of and Diameter of Cylinders.	Length of Stroke.	N. H. P., I. H. P., Speed of Ship.
	Engines.		Engines.	Engines.			
	Boilers.		Boilers.	Boilers.			
	Number - Iron or steel - Pressure when loaded -						

## PARTICULARS OF TONNAGE.

GROSS TONNAGE.	No. of Tons.	DEDUCTIONS ALLOWED.	No. of Tons.
Under tonnage deck . . .		On account of space required for propelling power . . .	
Closed-in spaces above the tonnage deck, if any:—		On account of spaces occupied by seamen or apprentices, and appropriated to their use, and certified under the statutory regulations. These spaces are the following, viz. :—	
Space or spaces between deck		On account of space used exclusively for accommodation of master for the working of the helm, the capstan and the anchor gear, or for keeping the charts, signals and other instruments of navigation and boatswain's stores, and for space occupied by donkey engine and boiler, and in case of sailing ships for space used for storage of sails.	
Poop . . . . .		Cubic Metres.	
Forecastle . . . . .			
Round house . . . . .			
Other closed-in spaces for machinery, light and air, if any . . . . .			
Gross tonnage . . . . .			
Deductions as per contra . . . . .			
Registered tonnage . . . . .		Total deductions	

To have and hold the said \_\_\_\_\_ or vessel  
 unto the said \_\_\_\_\_, executors, administrators, and  
 assigns, to \_\_\_\_\_, their own use and uses, and as  
 their own proper goods and chattels, from henceforth for ever.  
 And I, the said \_\_\_\_\_, marshal of the  
 Court of \_\_\_\_\_, do hereby covenant,  
 promise, and agree, to and with the said  
 executors, administrators, and assigns, in manner following;  
 that is to say, that at the time of ensealing and delivery hereof,  
 I have, in and by the order aforesaid, good right, full power,  
 and lawful authority to sell, assign, and set over the said  
 premises unto the said \_\_\_\_\_ executors, administrators,  
 and assigns, in manner and form aforesaid. And that the said  
 premises, and every part thereof, now are and so from hence-  
 forth for ever shall be, remain and continue unto the said  
 executors, administrators, and assigns.

In witness whereof I have hereunto set my hand and seal  
 this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord  
 one thousand \_\_\_\_\_.

(L.S.)

Marshal.

Signed, sealed, and delivered by the said \_\_\_\_\_, in the  
 presence of \_\_\_\_\_.

[Note.—In the above forms of bills of sale the spaces left blank  
 for the insertion of the names of the buyer or buyers should be  
 filled in with such names, in full, followed by the word "his,"  
 "her," or "their" (executors, &c.) as the case may be.]



## No. 51.

Rule 116.SUMMONS FOR REVIEW OF REGISTRAR'S TAXATION OF  
MARSHAL'S ACCOUNT.

No. .

In the Vice-Admiralty (*or the Supreme or other Court having  
prize jurisdiction*) Court of .

In Prize.

The , master.

Let all parties concerned attend the Judge in chambers on  
the day of , at o'clock .m., on the  
hearing of an application on the part of  
that the order of the registrar made on the taxation of the  
marshal's charges herein be reviewed.

Dated this day of .

This summons was taken out by , of ,  
solicitor for

To .

## No. 52.

Rule 118.

## SUMMONS FOR INSPECTION OF PROPERTY.

No. .

In the Vice-Admiralty (*or the Supreme or other Court having  
prize jurisdiction*) Court of .

In Prize.

The , master.

Let all parties concerned attend the Judge in chambers  
on day, the day of , at o'clock  
.m., on the hearing of an application on the part of  
that the ship (*or, if goods, describe the same*) be inspected by  
A.B., claimant (*or captor, or as the case may be*) and by a sur-  
veyor in his behalf (*or by*) a surveyor to be  
appointed by the marshal (*or the assessors of the Court*), and that  
a report in writing be lodged by him (*or them*) in the registry.

Dated this day of .

This summons was taken out by , of ,  
solicitor for

To .

## No. 53.

## ORDER FOR THE INSPECTION OF PROPERTY.

Rule 118.

No. .

In the Vice Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of  
In Prize.

The , master.  
On the day of .  
Before Judge.

The Judge, on the application of [petitioner, claimant, or as  
the case may be] ordered that the ship (or if goods,  
describe the same), should be inspected by (as ordered, following  
the terms of the summons, or as the case may be).

(Signed) E.F.,  
Registrar.

## No. 54.

## NOTICE OF MOTION FOR DELIVERY ON BAIL.

Rule 122.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of  
In Prize.

The , master.

Take notice that on the day of , or so soon  
thereafter as counsel can be heard, the Judge will be moved by  
, on behalf of the claimant A.B., for an order that  
the ship (or, the cargo of the ship )  
be appraised by the marshal and be released and delivered up  
on bail to the said claimant on his giving bail on the appraised  
value thereof.

Dated this day of .

(Signed) J.K.,

Solicitor for the Claimant, A.B.

To C.D. (or L.M., solicitor for the) captor.

## No. 55.

Rule 122.

## ORDER FOR DELIVERY ON BAIL.

No. .

In the Vice-Admiralty (or the Supreme or other Court <sup>having</sup>  
prize jurisdiction) Court of .

In Prize.

The , master.

Upon hearing (*names of parties, or counsel, or solicitors, for*  
) and upon reading the affidavit of ,  
filed the day of (*if any*):

It is ordered that the said ship (and her cargo), be appraised by the marshal, and that after such appraisement and upon the claimant, giving security or bail to the satisfaction of the Court in the amount of the value of the said ship (and cargo), as ascertained by such appraisement (and in the further sum of £ ), to pay to the captors such value in case of condemnation (and such further sum for costs, as may be adjudged) the said ship (or, the cargo of the said ship) be released or delivered up to the claimant.

Dated this day of , .

E.F.,  
Registrar.

## No. 56.

Rules 123,  
124, and 8.AFFIDAVIT BY CLAIMANT TO LEAD WARRANT OF ARREST IN  
CAUSE FOR CONDEMNATION.

No. .

In the Vice-Admiralty (or the Supreme or other Court <sup>having</sup>  
prize jurisdiction) Court of .

In Prize.

The , master.

I, A.B. (*insert name of claimant*), make oath and say as follows:—

1. I am the owner (or master, or as the case may be) of the ship (or the cargo of the ship ).
2. The said ship (or cargo) has been taken as prize and brought into the port of , within the jurisdiction of the Court [or, has been seized in the port of within the jurisdiction of this Court; or, has been seized (or

taken) as prize and is now at \_\_\_\_\_ within the jurisdiction of this Court, *as the case may be*], but has not been delivered up to the marshal of this Court.

3. On the \_\_\_\_\_ day of \_\_\_\_\_, I duly entered my claim.

4. On the \_\_\_\_\_ day of \_\_\_\_\_, a monition to proceed was duly served upon \_\_\_\_\_ the captor (*or seisor, as the case may be*).

5. The aid of this Court is required to enforce my said claim and to enable me to obtain restitution of the said ship (*or cargo*).

Sworn, &c.

(Signed) A.B.

#### No. 57.

AFFIDAVIT BY CAPTOR TO LEAD WARRANT OF ARREST IN \_\_\_\_\_ Rules 123,  
CAUSE FOR CONDEMNATION. \_\_\_\_\_ 124, and 9.

No. \_\_\_\_\_

In the Vice-Admiralty (*or the Supreme or other Court having prize jurisdiction*) Court of \_\_\_\_\_

In Prize.

The \_\_\_\_\_, master.

I, A.B., make oath and say as follows:—

1. I am (*state name, profession, or occupation*).

2. On the \_\_\_\_\_ day of \_\_\_\_\_ (*or, I am informed and believe that on the \_\_\_\_\_ day of \_\_\_\_\_*) the ship \_\_\_\_\_ and her cargo were taken or seized as prize by Her Majesty's ship \_\_\_\_\_. A prize crew was put on board of the said ship \_\_\_\_\_ with orders to take her to the port of \_\_\_\_\_ and whilst the said ship was so proceeding to the said port she was rescued from the said prize crew by her own crew. [*Set out the facts as they actually happened justifying and requiring arrest.*]

3. The said ship is now, as I am informed and believe, at \_\_\_\_\_, within the jurisdiction of this Court.

4. I am informed and believe that it is necessary (*or desirable*) that the said property should be within the custody of this Court and that the aid of this Court is required.

Sworn, &c.

(Signed) A.B.

## No. 58.

Rules 124 and 71.      AFFIDAVIT TO LEAD WARRANT TO ENFORCE DECREE IN PRIZE SALVAGE.

No. .

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of  
In Prize.

The , master.

I, J.K., solicitor for the petitioners in this cause (*fill in names*) make oath and say as follows:—

1. By decree of this Court dated the      day of the petitioners were awarded the sum of £      for prize salvage in respect of the recapture of the said ship (and her cargo) by the petitioners.

2. Application has been made to the respondents, the owners of the said ship (and her cargo), for the payment of the said sum, but they have neglected to pay the same.

The said ship      is now within the jurisdiction of this Court, and the aid and process of the Court are necessary to obtain payment of the same.

Sworn, &c.

(Signed)      J.K.

## No. 59.

Rule 125.      WARRANT FOR ARREST.

No. .

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of  
In Prize.

The , master.

(L.S.)

Victoria, &c.

To the marshal of Our      Court of

We hereby command you to arrest the ship      (and the cargo and freight, &c., or as the case may be).

And to keep the same under safe arrest until you shall receive further orders from Us.

in Our said Court, under the seal  
day of \_\_\_\_\_, \_\_\_\_\_.  
(Signed) E.F.,  
Registrar.

## Warrant.

**Taken out by**

**No. 60.**

**MONITION TO PAY FREIGHT OR PROCEEDS INTO COURT.**

No.

**Rules 126  
and 244-  
247.**

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of \_\_\_\_\_.

**In Prize.**

The \_\_\_\_\_, master.

(L.S.)

Victoria, by the Grace of God, &c., &c.

To \_\_\_\_\_ greeting :

Whereas in a cause of \_\_\_\_\_, instituted in Our Court of \_\_\_\_\_, on behalf of \_\_\_\_\_ against \_\_\_\_\_, the Judge of Our said Court has ordered a monition to be issued against you to pay into Court the freight (or, the proceeds of prize) held (or received) by you in respect of (*specify the voyage on which the freight in question was earned or the prize from which the proceeds in question resulted, as the case may be*). We therefore hereby command you, the said \_\_\_\_\_, to pay, within six days from the service hereof (exclusive of the day of such service) the said freight (or proceeds) into the Registry of Our said Court.

Given at \_\_\_\_\_, under the seal of Our said Court,  
this \_\_\_\_\_ day of \_\_\_\_\_.

(Signed) *E.F.*,  
Registrar.

Monition to pay \_\_\_\_\_ into Court.

**Taken out by**

## No. 61.

Rules 130  
and 264.

## PRÆCIPUE FOR BAIL BOND.

No. .

In the Vice-Admiralty (*or the Supreme or other Court having  
prize jurisdiction*) Court of .

In Prize.

The , master.

I, *J.K.*, solicitor for , pray a bail bond for  
the signature of the sureties named in the annexed notice of  
bail.

Dated this day of

(Signed) *J.K.*

## No. 62.

Rule 130.

## BAIL BOND.

No. .

In the Vice-Admiralty (*or the Supreme or other Court having  
prize jurisdiction*) Court of .

In Prize.

The , master.

Whereas a cause of has been instituted in the  
Court of , on behalf of ,  
against the ship and her cargo (and against  
intervening).

Now therefore we, and , hereby  
jointly and severally submit ourselves to the jurisdiction of the  
said Court, and consent that if he the said shall  
not pay what may be decreed, awarded, or ordered in favour of  
any party whatsoever against him in the said cause with costs  
(*or, if for costs only*, for costs), execution may issue forth  
against us, our heirs, executors, and administrators, goods and  
chattels, for a sum not exceeding pounds.

(*Signature of Sureties.*)

This bail bond was signed by the said  
and , the sureties,  
this day of .

Before me,

*E.F.*,

Registrar

(*or as the case may be.*)

## No. 63.

## PRÆCIPE FOR COMMISSION TO TAKE BAIL.

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Rules 130  
and 264.

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No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

I, J.K., solicitor for , pray a com-  
mission to take bail on behalf of (state name,  
address, and description of the person for whom bail is to be  
given), in the sum of pounds, to answer judgment  
in this cause (if for costs, add so far as regards costs); the said  
commission to be addressed to .

Dated this day of .

(Signed) J.K.

## No. 64.

## COMMISSION TO TAKE BAIL.

---

Rule 130.

---

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

(L.S.)

Victoria, by the Grace of God, &c., &c.

To , greeting:

Whereas in a cause of , instituted in  
the Court of , on behalf of ,  
against the ship (and her cargo) (and against  
intervening), bail is required to be taken on behalf of  
in the sum of pounds to answer judgment in the said  
cause (if for costs, so far as regards costs). We therefore hereby  
authorise you to take such bail on behalf of the said  
from two sufficient sureties, who may be produced before you  
for that purpose, upon the bail bond hereto annexed, and to  
swear the said sureties to the truth of the annexed affidavits as  
to their sufficiency. And We command you, upon the said bail



pond and affidavits being duly executed and signed by the said sureties, to transmit the same, attested by you, into the Registry of Our said Court.

Given at \_\_\_\_\_, under the seal of Our said Court,  
this \_\_\_\_\_ day of \_\_\_\_\_.

(Signed) *E.F.*,  
Registrar.

Commission for bail.

Taken out by \_\_\_\_\_

No. 65.

Rule 135.

NOTICE OF BAIL.

No. \_\_\_\_\_

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of \_\_\_\_\_

In Prize.

The \_\_\_\_\_, master.

Take notice that I *J.K.*, solicitor for \_\_\_\_\_, tender the under-mentioned persons as bail on behalf of \_\_\_\_\_ (state name, address, and description of the party for whom bail is to be given), in the sum of \_\_\_\_\_ pounds, to answer decree, award, or order in this cause (if for costs, add so far as regards costs).

*Names, Addresses, and Descriptions of—*

Sureties.

Referees  
(if required).

- 1.
- 2.

Dated this \_\_\_\_\_ day of \_\_\_\_\_

(Signed) *J.K.*,  
Solicitor for \_\_\_\_\_

To *A.B.* (or *L.M.*, the solicitor for *A.B.*).

No. 66.

NOTICE TO JUSTIFY.

Rule 136.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that I require (*state name, address, and description of surety or sureties required to justify*) to justify by affidavit his (or their) sufficiency as a surety (or as sureties) in this cause.

Dated this day of .  
(Signed) A.B.

To C.D. (or J.K., the Solicitor for C.D.).

No. 67.

AFFIDAVIT OF JUSTIFICATION.

Rule 136.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

I (*state name, address, and description*), one of the proposed sureties for (*state name, address, and description of person for whom bail is to be given*) make oath and say that I am worth more than the sum of (*state in letters the sum in which bail is to be given*) pounds after the payment of all my debts.

Sworn, &c.

(Signature of Surety.)

## No. 68.

Rule 136.

## NOTICE OF OBJECTION TO BAIL

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

Take notice that I object to the bail proposed to be given by  
(state name, address, and description of surety or sureties  
objected to) in this cause.

Dated this day of .

(Signed) A.B.

To C.D. (or J.K., the solicitor for C.D.).

## No. 69.

Rules 144  
and 264.

## PRÆCIPE FOR RELEASE

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

I, J.K., solicitor for in a cause of  
instituted on behalf of , against the (state name and  
nature of property), now under arrest (if held under warrant, by  
virtue of a warrant issued from the Registry of this  
Court), pray a release of the said , bail having been  
given (or as the case may be), and there being no caveat against the  
release thereof outstanding.

Dated this day of .

(Signed) J.K.,  
Solicitor for .

No. 70.

RELEASES.

Rule 144.

(i.) *On Restitution.*

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

(L.S.)

Victoria, by the Grace of God, &amp;c., &amp;c.

To the marshal of Our

Court , greeting :

Whereas Our Judge of Our said Court in the above-named  
cause prosecuted before him on Our behalf by against  
the said ship (and the cargo thereof), seized and  
taken by (*insert name or names of captors*), and against (*insert  
name of the claimant*) intervening rightly and duly proceeding  
on the day of , pronounced  
the said ship (and cargo) to have belonged as claimed, and  
decreed the said ship and cargo to be restored to the claimants  
for the use of the owners and proprietors thereof.

We do therefore by these presents authorise and command  
you to release the said ship (and her said cargo heretofore  
delivered into your custody) from the seizure made in this  
behalf, and to deliver and restore the same unto the said (*insert  
name of claimant*), for the use of , the owner and  
proprietor thereof.

Given at , under the seal of Our said Court,  
this day of .

(Signed) E.F.,  
Registrar.

Release on restitution of

Taken out by

(ii.) *From Arrest.*

(Heading as in Form (i).)

(L.S.)

Victoria, &amp;c.

To the marshal of Our

Court of ,

greeting :

Whereas by Our warrant in the above-named cause, instituted  
on behalf of (*insert petitioners' names*) against the said ship  
(and her cargo), and against (*insert names  
of owners or interveners*), to recover prize salvage (or as the case

*may be*), We did command you to arrest the said ship and her cargo (*or state nature of the property under arrest*), and to keep the same in safe arrest until you should receive further order from Us.

And whereas Our Judges of Our said Court did by his decree (*or order*), dated the            day of           , direct the said ship (and her cargo) to be released to the owner thereof on payment of the sum of £            and costs.

And whereas the said owner has paid the said sum of £            and costs:

We hereby command you to release the said            from the said arrest upon payment being made to you of all costs, charges, and expenses attending the care and custody of the property while under arrest in the said cause.

Given at           , under the seal of Our said Court, this            day of           .

Release from arrest           .

Taken out by           .

(Signed)            E.F.,  
Registrar.

#### No. 71.

#### Rule 147.

#### NOTICE FOR CAVEAT WARRANT.

No.           .

In the Vice-Admiralty (*or the Supreme or other Court having prize jurisdiction*) Court of           .

In Prize.

The           ,           , master.

Take notice that I, A.B., solicitor for (*or as the case may be*), apply for a caveat against the issue of any warrant for the arrest of (*state name and nature of property*), and I hereby undertake to enter an appearance in any cause for prize salvage that may be commenced in the Court against the said ship (*or, state nature of property*), and within three days after I shall have been served with notice of the institution of the cause, to give bail therein in a sum not exceeding (*state the amount for which the undertaking is given*), or to pay such sum into the Registry.

My address for service is           .

Dated this            day of           .

(Signed)            A.B.,  
Solicitor (*or as the case may be*).

## No. 72.

## CAVEAT WARRANT.

Rule 147.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Caveat entered this day of against  
the issue of any warrant for the arrest of (*state name and  
nature of property*) without notice being first given to (*state  
name and address of person to whom, and address at which,  
notice is to be given*), who has undertaken to appear and to  
give bail in any cause for prize salvage which may have been  
or may be instituted against the said property in this Court.

On withdrawal of caveat, add: Caveat withdrawn this  
day of

## No. 73.

## NOTICE FOR CAVEAT RELEASE.

Rule 151.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that I, A.B., solicitor for the claimant (or, as the  
case may be) in a cause instituted in behalf of (*state name, &c. of  
claimant, &c.*), against the (*state name and nature of property*),  
apply for a caveat against the release of (*state name and nature  
of property*).

(If the person applying for the caveat is not a party to the  
cause, he must also state his address and an address for service  
within three miles of the Registry.)

Dated this day of

(Signed) A.B.,  
Solicitor (or as the case may be).

No. 74.

Rule 151.

CAVEAT RELEASE.

No. .

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of

In Prize.

The , master.

Caveat entered this day of against the release of (state name and nature of property), by (state name and address of person entering caveat, and his address for service).

On withdrawal of caveat, add: Caveat withdrawn this day of

No. 75.

Rule 152.

NOTICE FOR CAVEAT PAYMENT.

No. .

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of

In Prize.

The , master.

Take notice that I, A.B., solicitor for (or as the case may be), in the above-named cause, apply for a caveat against the payment of any money (if for costs, add for costs) out of the proceeds of the sale (or of the freight of) the ship (or as the case may be) now remaining in Court, without notice being first given to me.

(If the person applying for the caveat is not a party to the cause, he must also state his address, and an address for service within three miles of the Registry.)

Dated this day of

(Signed) A.B.,  
Solicitor (or as the case may be).

## No. 76.

## CAVEAT PAYMENT.

No.

Rule 152.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of  
In Prize.

The , master,

Caveat entered this day of , against the  
payment of any money (if for costs, add for costs) out of the  
proceeds of the sale of the ship (or of the freight  
of) (or as the case may be) now remaining in Court, without  
notice being first given to (state name and address of person to  
whom, and address at which, notice is to be given).

On withdrawal of the caveat add: Caveat withdrawn this  
day of

## No. 77.

## NOTICE OF WITHDRAWAL OF CAVEAT.

No.

Rule 156.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that I withdraw the caveat (warrant, release, or  
payment, as the case may be) entered by me in this cause.

Dated this day of

(Signed) A.B.,  
Solicitor (or as the case may be).

## No. 78.

## NOTICE OF MOTION.

No.

Rule 172.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that on (day of week) the day of  
the petitioner (or as the case may be) will by counsel (or as the



*case may be*) move the Judge to order that (*state nature of order to be moved for*).

Dated this            day of

(Signed)    *A.B.*,

Petitioner (*or as the case may be*).

To *C.D.* (*or L.M.*), the solicitor for  
the respondent (*or as the case  
may be*).

No. 79.

SUMMONS.

Rule 172.

No.    .

In the Vice-Admiralty (*or the Supreme or other Court having  
prize jurisdiction*) Court of

In Prize.

The            , master.

Let *A.B.* attend before the Judge (*or Registrar*) in chambers  
at            , on the            day of  
at            o'clock in the            noon, to show cause why

Dated this            day of

(Signed)    *E.F.*,  
Registrar.

Summons.

Taken out by

No. 80.

Rule 177.

ORDER FOR EXAMINATION OF WITNESSES.

No.    .

In the Vice-Admiralty (*or the Supreme or other Court having  
prize jurisdiction*) Court of

In Prize.

The            , master.

On the            day of

Before            , Judge.

It is ordered that (*state the names of the witnesses*), witnesses  
for the            , shall be examined before the  
at            , on            the            day of  
at            o'clock in the            noon.

(Signed)    *E.F.*,  
Registrar.

## No. 81.

## COMMISSION TO EXAMINE WITNESSES.

Rule 178.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.  
(L.S.)

Victoria, by the Grace of God, &c., &c.

To (state name and address of commissioner) greeting :

Whereas the Judge of Our Court of  
has decreed that a commission shall be issued for the examination  
of witnesses in the above-named cause. We, therefore, hereby  
authorise you, upon the day of , at  
, in the presence of the parties, their counsel and  
solicitors, or, in the absence of any of them, to swear the witnesses  
who shall be produced before you for examination in the said  
cause, and cause them to be examined, and their evidence  
reduced into writing. We further authorise you to adjourn, if  
necessary, the said examination from time to time, and from  
place to place, as you may find expedient. And We command  
you, upon the examination being completed, to transmit the  
evidence duly certified, together with this commission, to the  
Registry of Our said Court.

Given at in Our said Court, under the seal thereof,  
this day of ,

(Signed) E.F.,  
Registrar.

Commission to examine witnesses.

Taken out by

## No. 82.

## RETURN TO COMMISSION TO EXAMINE WITNESSES.

Rule 182.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

I, P.Q., the commissioner named in the commission hereto  
annexed, bearing date the day of , hereby  
certify as follows :—

(1.) On the day of I opened the said  
commission at , and in the presence of (state who

were present, whether both parties, their counsel, or solicitors, or as the case may be), administered an oath to and caused to be examined the under-named witnesses who were produced before me on behalf of the \_\_\_\_\_ to give evidence in the above-named cause, viz. :—

(Here state names of witnesses.)

(2.) On the \_\_\_\_\_ day of \_\_\_\_\_ I proceeded with the examinations at the same place (or if not, state where) and in the presence of (as above) administered an oath to and caused to be examined the under-named witnesses who were produced before me on behalf of \_\_\_\_\_, to give evidence in the said cause, viz. :—

(State names of witnesses.)

(3.) Annexed hereto is the evidence of all the said witnesses certified by me to be correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_

(Signed) P.Q.,  
Commissioner.

No. 83.

Rule 178.

ORDER FOR ISSUE OF REQUEST.

No. \_\_\_\_\_

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of \_\_\_\_\_

In Prize.

The \_\_\_\_\_, master.

It is ordered that a letter of request do issue directed to the proper tribunal for the examination of the following witnesses, that is to say :—

B.C., of \_\_\_\_\_,  
D.E., of \_\_\_\_\_, and  
F.G., of \_\_\_\_\_.

And it is ordered that the depositions taken pursuant thereto when received be filed in the Registry of this Court, and be given in evidence on the trial of this cause, saving all just exceptions.

(Signed) E.F.,  
Registrar.

No. 84.

REQUEST.

Rule 178.

To the president and judges of (or as the case  
may be).

Whereas a cause is now pending in the Court of  
in prize and the said cause is instituted on behalf  
of Her Britannic Majesty for the condemnation of the ship  
and her cargo (or as the case may be) as prize, and the said ship  
and cargo (or as the case may be) is claimed by A.B., a subject of  
(or, and the said cause is constituted for the re-  
covery of prize salvage, or to establish a claim of joint capture  
by E.F. against C.D.).

And whereas it has been represented to the said Court that  
it is necessary for the purposes of justice, and for the due  
determination of the matters in dispute in the said cause, that  
the following persons should be examined as witnesses upon  
oath touching such matters, that is to say:—

B.C., of  
D.E., of , and  
F.G., of

And it appearing that such witnesses are resident within the  
jurisdiction of your honourable Court.

Now I, as Chief Justice (or as the case may  
be) of the said Court have the honour to request that for the  
assistance of this Court you will be pleased to summon the said  
witnesses [and such other witnesses as the claimant A.B. (or  
as the case may be) or his agents may humbly request you in  
writing so to summon] to attend at such time and place as you  
shall appoint before some one or more of you, or such other  
person as according to the procedure of your Court is competent  
to take the examination of witnesses, and that if due notice has  
before such time appointed been given of such examination to  
the agent acting on behalf of Her said Majesty (or as the case  
may be) in this matter, you will cause such witnesses to be  
examined upon the interrogatories which accompany this letter  
of request (or *vivâ voce*), touching the matters in question in  
this cause in the presence of the agents of the parties, or such of  
them as shall, on due notice given, attend such examination.

And I further have the honour to request that you will be  
pleased to cause the answers of the witnesses to be reduced into  
writing, and all books, letters, papers, and documents produced  
upon such examination to be marked for identification, and that  
you will be further pleased to authenticate such examination by  
the seal of your tribunal, or in such other way as is in accordance  
with your procedure, and to return the same together with such  
request in writing (if any) for the examination of other witnesses  
through Her Majesty's Secretary of State for Foreign Affairs,

or Her Majesty's Secretary of State for the Colonies, or the  
governor of for transmission to the said Court  
of

(L.S.)

(Signed)

Chief Justice (or Judge) of  
the Court of

No. 85.

Rule 185.

OATH TO BE ADMINISTERED TO INTERPRETER.

You swear that you are well acquainted with the English and  
languages, and that you will faithfully interpret  
between the Court and the witnesses.

So help you God.

No. 86.

Rule 187.

NOTICE TO ADMIT.

No.

(i.) *Documents.*

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that the petitioner *A.B.* (or as the case may be)  
in this cause proposes to adduce in evidence the several docu-  
ments hereunder specified, and that the same may be inspected  
by the respondent (or as the case may be), his solicitor or agent  
at , on , between the hours of and  
; and the respondent is hereby required within 48 hours  
(or insert such longer time as may be reasonable under the  
circumstances) from the last-mentioned hour, to admit that such  
of the said documents as are specified to be originals were  
respectively written, signed, or executed, as they purport  
respectively to have been; that such as are specified as copies  
are true copies; and such documents as are stated to have been  
served, sent, or delivered, were so served, sent, or delivered  
respectively; saving all just exceptions to the admissibility of all  
such documents as evidence in this cause.

Dated this day of

(Signed) *J.K.*,

Solicitor for the petitioner (or as  
the case may be).

To *C.D.* (or *L.M.*, solicitor for the), respondent (or as the case  
may be).

*Originals.*

Description of Documents.	Dates.
(Here briefly describe documents.)	(Here state date of each document.)
1.	
2.	

*Copies.*

Description of Documents.	Dates.	Time and mode of Service, Delivery, &c.
1.		Sent by general post, January 1, 19
2.		Served January 5th, 19, on respondent's solicitor by F.G. of

*(ii.) Facts.**(Heading as in Form (i).)***Rule 187.**

Take notice that the petitioner *A.B. (or as the case may be)* in this cause requires the respondent *(or as the case may be)* to admit, for the purposes of this cause only, the several facts respectively hereunder specified; and the respondent *(or as the case may be)* is hereby required within four days *(or such longer time as may be reasonable under the circumstances)* from the service of this notice, to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this cause.

Dated this                      day of

*J.K.,*  
Solicitor for the petitioner  
*(or as the case may be).*

To *C.D. (or L.M., solicitor for the),* respondent *(or as the case may be).*

The facts, the admission of which is required, are :—

1. That
2. That
3. That

No. 87.

Rule 187.

## ADMISSION OF FACTS PURSUANT TO NOTICE.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

The respondent (or as the case may be) in this cause, for the purposes of this cause only, hereby admits the several facts respectively hereunder specified, subject to the qualifications or limitations, if any, hereunder specified, saving all just exceptions to the admissibility of such facts, or any of them, as evidence in this cause.

Provided that this admission is made for the purposes of this cause only, and is not an admission to be used against the respondent (or as the case may be) on any other occasion, or by anyone other than the petitioner (or whoever requires the admission).

Delivered this                      day of  
(Signed) L.M.,  
Solicitor for the respondent  
(or as the case may be).

To A.B. (or J.K., solicitor for the) petitioner  
(or as the case may be).

Facts admitted.	Qualifications or Limitations, if any, subject to which they are admitted.
1. That, &c.	
2. That, &c.	
3.	3. But not that, &c.
4.	4. But not that, &c.
5.	

## No. 88.

## NOTICE OF MOTION TO INVOKE SHIP PAPERS.

Rule 189.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that on , the day of  
, or so soon thereafter as counsel can be heard,  
the Judge will be moved by on behalf of  
the captors (or the Crown, as the case may be), that the papers  
following (set out each of the papers and documents proposed to  
be invoked) found on board the ship may be  
invoked, produced, and given in evidence in the cause.

Dated this day of

(Signed) L.M.,

Solicitor for the captors (or as  
the case may be).

To A.B. (or J.K., solicitor for the) claimant  
(or as the case may be).

## No. 89.

## HEADING AND JURAT TO AFFIDAVIT.

Rule 192.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

I, , of (state whether petitioner,  
claimant, or solicitor for , the petitioner, claimant,  
or as the case may be) in the above-named cause, make oath and  
say as follows:—

1.

2.

Sworn at this day of  
(if by interpretation add by the interpretation of C.D., who  
was previously sworn that he was well acquainted with the  
English and languages, and that he would faithfully  
interpret this affidavit).

Before me,

E.F., &amp;c.

This affidavit is filed on behalf of



No. 90.

Rule 200.

APPOINTMENT TO ADMINISTER OATHS.

(i.) *Generally.*

In the Vice-Admiralty (or the Supreme or the Court having  
prize jurisdiction) Court of

In Prize.

(L.S.)

To (state name and address of commissioner).

I hereby appoint you to be a commissioner to  
administer oaths in all proceedings in prize in this Court.

(Signed)

H.R.,

Judge.

Rule 200.

(ii.) *In any Particular Proceeding.*

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

(L.S.)

The , master.

To (state name and address of person appointed).

I hereby authorise you to administer an oath (or oaths, as the  
case may be) to (state name or names of person or persons to  
whom, and proceeding in which, the oath is to be administered).

(Signed)

H.R.,

Judge.

No. 91.

OATHS.

Rule 201.

(i.) *Oath to be Administered to a Witness.*

You swear that the evidence given by you shall be the truth,  
the whole truth, and nothing but the truth,

So help you God.

(ii.) *Oath to be Administered to a Deponent.*

You swear that this is your name and handwriting, and that  
the contents of this affidavit are true,  
So help you God.

No. 92.

DECLARATIONS IN LIEU OF OATHS.

Rule 201

(i.) *By Witness.*

I solemnly promise and declare that the evidence given by me  
shall be the truth, the whole truth, and nothing but the truth.

(ii.) *By Deponent.*

I solemnly declare that this is my name and handwriting, and  
that the contents of this deposition are true.

No. 93.

OATH TO BE ADMINISTERED TO SHORTHAND WRITER.

Rule 203.

You swear that you will faithfully report and transcribe the  
evidence of the witnesses to be produced in this cause,  
So help you God.

No. 94.

NOTICE FOR HEARING.

Rule 208

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that I set down this cause for hearing.

Dated this day of

(Signed) A.B.,

Petitioner (or as the case may be).

To C.D. (or L.M., solicitor for the)  
respondent (or as the case  
may be).

No. 95.

Rule 215.

## REGISTRAR'S REPORT.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

(L.S.)

The , master.

To the Honourable the Judge of the Court  
of

Whereas by your decree of the day of  
you were pleased to pronounce in favour of the  
and to restore the said ship to the  
claimant with damages (and costs) (or to pronounce the said  
ship to be lawful prize to the captors, and to con-  
demn the claimants and their bail in the value thereof, with  
costs), and were further pleased to refer the question of such  
damages (or of the value of the said ship) to the registrar  
(assisted by merchants) to report the amount thereof.

Now I do report that I have (with the assistance of *here  
state names and description of assessors, if any*) carefully  
examined the accounts and vouchers, and the proofs brought in  
in support of the claim and in opposition thereto (*if any*), and  
having on the day of , heard the evidence of  
(*state names*), who were examined as witnesses on behalf of the  
, and of (*state names*), who were examined  
on behalf of the , and having heard the solicitors (or  
counsel) on both sides (*or as the case may be*), I find that there is  
due to the the sum of £ (*state sum in  
letters and figures*) together with interest thereon, as stated in the  
schedule hereto annexed. I am also of opinion that the  
is entitled to the costs of this reference (*or as the case may be*).

Dated this day of

(Signed) E.F.,  
Registrar.

SCHEDULE annexed to the foregoing report.

No.		Claimed.			Allowed.		
		£	s.	d.	£	s.	d.
1	<i>Here state as briefly as possible the several items of the claim with the amount claimed and allowed on each item in the columns for figures opposite the item.</i>						
2							
3							
4, &c.							
	Total						

With interest thereon from the                      day of  
at the rate of                      per cent. per annum until paid.  
(Signed)                      E.F.,  
   Registrar.

No. 96.

NOTICE OF MOTION TO VARY REGISTRAR'S REPORT.

Rules 217  
and 220.

No.

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of  
In Prize.

The                      , master.  
Take notice that the claimant (or as the case may be) objects  
to the report of the Registrar herein, and will (by counsel) on  
the                      day of                      , or so soon thereafter  
as he may be heard, move the Judge in Court to order that the  
said report may be varied upon the grounds that:—  
1. The amount awarded for demurrage is excessive (or as the  
case may be).  
2. The value of the said ship                      as found by the  
Registrar is too great (or as the case may be).  
3, &c. (Fill in all grounds of objection in separate para-  
graphs).

Dated this                      day of                      .  
(Signed)                      L.M.,  
   Solicitor for Claimant (or as  
the case may be).

To C.D. (or J.K., solicitor for the) captor (or as the case  
may be).

## No. 97.

Rule 229.

## NOTICE OF APPEAL

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

Take notice that I, A.B., claimant (or as the case may be)  
appeal from the decree (or order) of the Judge of the said  
Court made the day of

Dated this day of

(Signed) A.B.,  
Claimant (or as the case may be)

To C.D. (or J.K., solicitor for the) captor (or as the case may  
be).

## No. 98.

Rule 235.

## RECEIVABLE ORDER.

No. . Registry of the Court  
£ . of  
(date.)  
No. .

The , master.

SIR,

I have to request that you will receive from (state name  
of person paying in the money) the sum of  
pounds, shillings, and pence, on account in the  
above-named cause, and place the same to the credit of the  
said cause.

(Signed) E.F.,  
Registrar.

To the manager of Bank.

## No. 99.

## ORDER FOR PAYMENT OUT OF COURT.

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Rules 70  
and 237.

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(i.) *By the Judge.*

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

I, , Judge of the Court of  
of , hereby order payment of the sum of (*state  
sum in letters and figures*), being the amount (*state whether  
found due for salvage or costs, or proceeds of sale of ship or cargo  
condemned, as the case may be*) to be made to (*state name and  
address of party or solicitor to whom the money is to be paid*)  
out of the (proceeds of sale of the ship , or as the  
case may be) now remaining in Court.

Dated this day of .

(Signed) H.R.,  
Judge.

Witness,  
E.F.,  
Registrar.

(ii.) *Upon the Official Accountant.*

(Heading as in (i).)

To the Official Accountant of  
appointed to receive and hold prize moneys.

Pursuant to the order of the Judge herein, dated the  
day of , you are hereby directed to pay to (*state  
name and address of party or solicitor to whom the money is to  
be paid*) the sum of £ out of the moneys in your hands  
standing to the credit of the above cause.

Dated this day of .

(Signed) E.F.,  
Registrar.

[Note.—In cases of orders for payment to the marshal and  
of orders for transfer, the above forms must be adapted  
accordingly.]

No. 100.

Rule 238.

SUBPÆNA.

No. .

In the Vice-Admiralty (*or the Supreme or other Court having prize jurisdiction*) Court of

In Prize.

The , master.

(L.S.)

Victoria, by the Grace of God, &c., &c.

To , greeting :

We command you , that all other things set aside, you appear in person before the Judge (*or the registrar, or P.Q.*, a commissioner appointed by an order of Our said Court) at on the day of at o'clock in the noon, and so from day to day as may be required, and undergo your examination on the standing interrogatories (*or, give your evidence*) in the above-named cause.

(*If a SUBPÆNA DUCES TECUM add: and that you bring with you for production before the said Judge (or registrar, or as the case may be) the following documents, viz.:*)

(*Here state the documents required to be produced.*)

And herein fail not at your peril.

Given at , in Our said Court, under the seal thereof, this day of

Subpœna.

Taken out by

No. 101.

Rule 241.

ORDER FOR PAYMENT.

No. .

In the Vice-Admiralty (*or the Supreme or other Court having prize jurisdiction*) Court of

In Prize.

The , master.

On the day of

Before , Judge.

It is ordered that A.B. (claimant, *or as the case may be*), do pay to C.D. (captor, *or as the case may be*) within (days) from the date hereof the sum of (*state sum in letters and figures*) being the amount (*or, balance of the amount*) found

due from the said *A.B.* to the said *G.D.* for (damages, costs, or as the case may be) in the above-named cause.

(L.S.) (Signed) *E.F.*,  
Registrar.

## No. 102.

## PRÆCIPUE FOR MONITION TO PAY.

No.

Rules 70,  
71, 241,  
244-247,  
and 264.

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of

In Prize.

The , master.

I, *J.K.*, solicitor for (as the case may be) pray a monition against , to pay the sum of £ adjudged against him by the decree of the Judge, dated

(Signed) *J.K.*,  
Solicitor for

## No. 103.

## MONITION TO PAY.

No.

Rules 70,  
71, 241, and  
244-247.

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of

In Prize.

The , master.

(L.S.)

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India.

To (state name and address of the owner, bail, or other person to be monished), greeting:

Whereas in a cause instituted in Our said Court on behalf of (fill in the names of the captors, or salvors, or as the case may be), against the said ship (and her cargo, or against cargo, ex the said ship), (and against intervening) (or against you the owner of the said ship or of the cargo of the said ship), the Judge of Our said Court has ordered a monition to be issued against you to pay the sum of to the said sum being the amount for which you are liable under the bail bond given by



you in this cause, by reason of the decree of the Judge condemning (or restoring) the said ship (or, the cargo of the said ship) dated the                      day of                      (or, if in a claim for salvage, or the order is against the owner or captor personally): for which you are liable under the decree of the Judge, dated the                      day of                      (or, if the order is for costs): for which you are liable under the bail bond given by you for costs in this cause; or for costs, by reason of the decree of the Judge dated the                      day of

: We therefore hereby command you, the said                      , to pay within 6 days from the service hereof (exclusive of the day of service) the said sum of

to the said (state name and address of person to whom the money is to be paid) (or, if into Court, into the Registry of this Court) accordingly, and hereof fail not.

Given at                      , in Our said Court, under the seal thereof, this                      day of                      , in the year of our Lord

Monition to pay £

Taken out by

(Signed) *E.F.*,  
Registrar.

No. 104.

ATTACHMENT.

Rules 70,  
71, and  
242.

No.

In the Vice-Admiralty (or the Supreme or other Court having prize jurisdiction) Court of

In Prize.

The                      , master.

(L.S.)

Victoria, by the Grace of God, &c., &c.

To the marshal of Our                      Court of                      ,  
greeting:

Whereas the Judge of Our said Court has ordered (state name and description of person to be attached) to be attached for (state briefly the ground of attachment).

We, therefore, hereby command you to attach the said and to bring him before Our said Judge.

Given at                      , in Our said Court, under the seal thereof, this                      day of

(Signed) *E.F.*,  
Registrar.

Attachment.

Taken out by

## No. 105.

## ORDER FOR COMMITTAL.

Rule 243.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

(L.S.)

On the day of .  
Before , Judge.

Whereas *A.B.* (state name and description of person to be committed) has committed a contempt of Court in that (state in what the contempt consists), and, having been this day brought before the Judge on attachment, persists in his said contempt, it is now ordered that he be committed to prison (namely, the prison of ,) for the term of from the date hereof, or until he shall clear himself from his said contempt.

(Signed) *E.F.*,  
Registrar.

## No. 106.

## COMMITTAL.

Rule 243.

To , Governor (or Keeper) of prison  
(or as the case may be).

The Court of { Receive into your custody the  
body (or bodies) of  
herewith sent to you, for the cause herein underwritten; that  
is to say,—

For (state ground of attachment).

Dated the day of .  
(Signed) *H.R.*,  
Judge.

Witness,  
*E.F.*,  
Registrar.

No. 107.

Rules 249  
and 264.

PRÆCIPE.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of

In Prize.

The , master.

I, J.K., solicitor for (as the case may be), pray (state nature  
of instrument asked for).

Dated this day of

(Signed) J.K.  
Solicitor for

No. 108.

Rules 128  
and 259.

CERTIFICATE OF SERVICE OF WARRANT.

This warrant was served by me, G.H., marshal (or marshal's  
substitute) by (state the mode in which the service was effected  
and whether on ship, freight or goods, &c., according to Rule 126)  
on the day of

(Signed) G.H.,  
Marshal (or marshal's substitute).

No. 109.

Rule 259.

CERTIFICATE OF SERVICE BY MARSHAL OF INSTRUMENT OTHER  
THAN A WARRANT.

This , was served by me, G.H., marshal (or marshal's  
substitute) by (state in what mode service was effected) on  
the day of

(Signed) G.H.,  
Marshal (or marshal's substitute).

## No. 110.

## AFFIDAVIT OF SERVICE.

Rule 259.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

I, J.K., of , make oath and say :—

1. I am a clerk in the employ of Messrs. of  
solicitors for the in  
this cause.

2. On the day of , at o'clock, in the  
noon, I served at the office of Messrs. , of  
, a (state nature of document), whereof a true  
copy is hereunto annexed and marked O.

Sworn, &amp;c.

(Signed) J.K.

## No. 111.

## MINUTE ON FILING DOCUMENTS.

Rule 261.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

I, A.B. (petitioner, claimant, or as the case may be), file the  
following documents, viz.,  
(Here describe the documents filed.)

Dated this day of .

(Signed) A.B.

## No. 112.

## CERTIFICATE OF SERVICE.

Rule 263.

I certify that a copy of the within , was duly  
served on J.K., the solicitor for the petitioner (or as the case  
may be), on the day of .

(Signed) L.M.,  
Solicitor (or his clerk for him).

## No. 113.

Rule 274.

## MINUTE OF ORDER OF COURT.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

On the day of .

Before , Judge.

The Judge, on the application of *A.B.* (claimant, or as the case  
may be), ordered (state purport of order).

## No. 114.

Rule 274.

## MINUTE OF EXAMINATION OF WITNESSES.

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

On the day of .

Before , President (or Judge).

*A.B.* (claimant, or as the case may be) produced as witnesses  
(here state names of witnesses in full), who having been sworn  
(or as the case may be) were examined orally (or, if by interpre-  
tation, add by interpretation of ).

## No. 115.

Rule 274.

## MINUTES OF DECREES.

(i.) *On Condemnation of Ship, or Cargo, or Ship and Cargo ;  
where Claim made.*

No. .

In the Vice-Admiralty (or the Supreme or other Court having  
prize jurisdiction) Court of .

In Prize.

The , master.

On the day of .

Before , Judge.

The Judge having heard the claim of *A.B.*, claimant of the  
said ship and of the cargo thereof (or if there is  
a separate claim for cargo, and of *C.D.*, claimant of the cargo of

the said ship \_\_\_\_\_), and the proofs read, and counsel (or the solicitors) for (*insert the names and descriptions of the parties heard*), and having been assisted by (*here state names and descriptions of assessors, if any*), rejected the said claim (or claims), pronounced the said ship \_\_\_\_\_ (and the said cargo) (or the said cargo) to have belonged at the time of capture and seizure thereof to enemies of the Crown of Great Britain and, as such or otherwise, subject and liable to confiscation, and condemned the same (*if, on condemnation of ship alone, freight is due, add as also the freight due for the transportation of the cargo lately laden therein*) as good and lawful prize, and as taken by Her Majesty's ship \_\_\_\_\_, commander, and ordered the said ship \_\_\_\_\_ to be appraised and sold by the marshal (*or if both ship and cargo, or cargo alone, ordered the said cargo to be unladen and appraised and sold by the marshal*), (*and if the Judge should give the claimants their costs and expenses, add*) but directed the costs and expenses of the claimants to be paid out of the proceeds of such sale of ship (or cargo), and referred such costs and expenses to the registrar to ascertain the amount thereof.

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Rule 109.

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(ii.) *On Condemnation by Default.*

(*Heading as in Form (i.).*)

The Judge, having heard the proofs read and counsel (or the solicitors) for the (Crown or) captors, in default of appearance and claim of (*insert owners of ship, or as the case may be*), pronounced, &c. (*adapt Form (i.).*)

(iii.) *On Condemnation of a Ship of War.*

(*Heading as in Form (i.).*)

The Judge, having heard the proofs read and counsel (or the solicitors) for the Crown (or captors), in default of appearance and claim pronounced the said ship \_\_\_\_\_ to have belonged at the time of capture and seizure to enemies of the Crown of Great Britain and, as such or otherwise, subject and liable to confiscation, as having been a ship of war, and condemned the same, together with her tackle, apparel, furniture, stores, arms and ammunition, as good and lawful prize, generally reserving the question by whom taken, and also the consideration of head money [or as taken by Her Majesty's ship \_\_\_\_\_, commander, and (*if head money is given*) pronounced and declared that the officers and crew of Her Majesty's said ship \_\_\_\_\_ (*or such of them as are entitled*) are entitled to prize bounty as having been present at the taking of the said ship of war \_\_\_\_\_ and that at the beginning of the engagement

there were on board the said ship of war                      persons,  
and that the amount of prize bounty aforesaid is the sum of  
£         ].

(iv.) *On Restoration.*

(Heading as in Form (i).)

The Judge, having heard the claim of A.B., claimant of the said ship \_\_\_\_\_, (and of the cargo thereof) (or, if there is a separate claim for cargo, and of C.D., claimant of the cargo of the said ship) and the proofs read, and counsel (or the solicitors) for (insert names and descriptions of the parties heard), and having been assisted by (here state names and descriptions of assessors if any) admitted the said claim (or claims), pronounced the said ship \_\_\_\_\_ (and cargo) (or the said cargo) to have belonged as claimed, and decreed the said ship (if the freight is due, with freight and expenses to be a charge on the cargo) (together with the said cargo) to be restored to the claimants for the use of the owners and proprietors thereof [on payment of the captors' expenses or and condemned the captors (insert name or names) in the costs and damages sustained by the owners of the said ship and of the said cargo (or of the said cargo) by reason of the capture and detention thereof by \_\_\_\_\_, and referred the amount of such costs and damages to the registrar to report thereon].

(v.) *Condemning Ship and Restoring Cargo.*

(Heading as in Form (i).)

The Judge, having heard, &c. (*adapt Form (i.)*), pronounced the said ship to have belonged at the time of capture and seizure thereof to enemies of the Crown of Great Britain, and, as such or otherwise, subject and liable to confiscation, and condemned the same (as also the freight due for the transportation of the cargo lately taken therein) as good and lawful prize, and as taken by Her Majesty's ship \_\_\_\_\_, commander, and ordered the said ship to be appraised and sold by the marshal, and pronounced the said cargo to have belonged as claimed and decreed the said cargo to be restored to the claimant for the use of the owners and proprietors thereof (upon payment of the captors' expenses, and upon payment of the freight due for the transportation of the said cargo, and referred the amount of such freight to the registrar to report thereon).

(vi.) *Restoring Ship and Condemning Cargo.*

(Heading as in Form (i).)

The Judge, having heard, &c. (*adapt Form (i.)*), admitted the claim for the said ship \_\_\_\_\_, and pronounced the said ship to have belonged as claimed, and decreed the said ship to be \_\_\_\_\_

restored to the claimant for the use of the owners and proprietors thereof (*if freight is due*, and pronounced freight and expenses to be due upon the cargo of the said ship), and rejected the said claim for the said cargo, and pronounced the same to have belonged, at the time of the capture and seizure thereof, to enemies of the Crown of Great Britain, and, as such or otherwise, subject and liable to confiscation, and condemned the same (*as in Form (i.)*), and ordered the said cargo to be unladen and appraised, and sold by the marshal.

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Rule 109.

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(vii.) *Condemnation as Droit of Admiralty.*

(*Heading as in Form (i.)*)

The Judge, having heard, &c. (*adapt Form (i.) to words "good and lawful prize," and proceed*) and as droits and perquisites of Her Majesty, in Her office of Admiralty, seized by the officers of Her Majesty's Customs, at the port of \_\_\_\_\_ (or, as taken by the non-commissioned ship \_\_\_\_\_ or the officers and crew of the non-commissioned ship \_\_\_\_\_, as the case may be, and conclude as in Form (i.) or as required).

[*Note.—This form may be adapted to cases of condemnation to the Crown.*]

(viii.) *Order for further Proof.*

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Rule 52.

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(*Heading as in Form (i.)*)

The Judge, having heard the claim of \_\_\_\_\_, and the proof read, and counsel (or the solicitors) for the parties, admitted the said claim, but directed further proof to be made of the property in the said ship (or cargo) by affidavit (or oral examination), and with (or without) pleadings, or by production of further documents, as the case may be by (*insert names of person or persons by whom further proof is to be given*).

If the further proof is to be given by oral examination of witnesses, add: and further directed such examination should take place before the said Judge, [or if before the Commissioners, before (*set out the names of the Commissioners*); or if before a special examiner, before \_\_\_\_\_, special examiner; or, if before special commissioners, before \_\_\_\_\_, and \_\_\_\_\_, special commissioners]: and further ordered that such proof should be filed within \_\_\_\_\_ of the date of this order [*and, if the Judge orders the ship or cargo to be delivered on bail, add and the Judge further ordered the said ship (or goods) to be appraised and thereupon to be delivered up to the claimant for the use of the owners and proprietors thereof on his giving security to the satisfaction of the Court to pay to the captors the appraised value thereof in case of condemnation (together with costs).*]



[*Note.—In cases where at first hearing instead of rejecting a claim, the Judge orders further proof, the above form of order should, from the words "admitted the said claim" (inclusive), be inserted in the decree instead of "rejected the said claim," etc. (Form (i.)).*]

(ix.) *Pronouncing further Proof insufficient and condemning.*

(*Heading as in Form (i.).*)

The Naval  
Prize Act,  
1864, s. 21.

The Judge, having heard the further proof adduced by , (read) and counsel (or the solicitors), for the several parties, pronounced the said further proof to be insufficient, rejected the same, and pronounced the said ship , to have been at the time of the capture and seizure thereof, &c. [*proceed as in Form (i.) or as the case may require. And if the ship has been released on bail, proceed:* And ordered the claimant to pay to the captors (or into Court) the appraised value of the said ship (together with costs, if so ordered). *And if the further proof is as to cargo and, in consequence thereof, demurrage is due to the ship, and if any damages are due for any injury the ship has sustained since the capture, proceed:* And the Judge further pronounced months' demurrage to be due to the owners of the said ship , and that damages were due for injury sustained by the ship since the capture thereof, and decreed that such demurrage and damages should be a charge on the goods condemned as aforesaid, and referred such demurrage and damages to the registrar to report the amount thereof].

**Rule 57.**

[*Note.—If, instead of condemning the ship or cargo, the Judge orders additional further proof, Form (viii.) may be inserted in the above form from the words, "further proof to be insufficient," using the words "additional further proof" in place of "further proof."*]

(x.) *Pronouncing further Proof sufficient and restoring.*

(*Heading as in Form (i.).*)

The Judge, having heard, &c. (*as in Form (ix.).*), pronounced the said further proof to be sufficient, and the said ship (and her cargo, or the cargo of the said ship ) to have belonged as claimed, and decreed the same to be restored to the claimant (or claimants), for the use of the owners and proprietors thereof (*and proceed as in Forms (iv.), (v.), or (vi.) as required.*)

**Rule 72.**

(xi.) *In Prize Salvage.*

*Where Ship is brought in and remains under Arrest.*

(*Heading as in Form (i.).*)

The Judge, having heard the claim and proofs read, and counsel (or the solicitors) on both sides, and having been

assisted by (*here state the names and descriptions of assessors, if any*), admitted the claim of A.B., the claimant of the said ship (and her cargo), pronounced the said ship (and her cargo) to have belonged to subjects of Her Majesty or to His Majesty the King of (*state style and title of the allied Government, and his subjects*), and to have been taken from them by the (*state name of enemy nation*), and retaken by Her Majesty's ship of war, the \_\_\_\_\_, commander, and decreed the same to be restored to the claimants for the use of the former owner or proprietors thereof (*or of his said Majesty, name of allied state, and his subjects, the former owners and proprietors thereof*), on payment of one-eighth part (*or such other part as the Judge may determine*) of the value of the said ship (*or the cargo of the said ship*), to the recaptors. The Judge further decreed that the costs of the recaptors of and incidental to this cause should be paid by the claimants (*or insert such other order as to costs as the Judge may make*). The Judge further ordered and directed that the said value should be ascertained by appraisement of the said ship (*or the cargo of the said ship*) by the marshal, and decreed that in default of payment by the claimant of the said \_\_\_\_\_, part of the said value so ascertained as aforesaid (and the said costs) within \_\_\_\_\_ days after the return of the said appraisement by the marshal, the said ship (*or the cargo of the said ship*) should be sold by the marshal, and the proceeds of such sale paid into Court, and that the said \_\_\_\_\_ part (and the said costs) be paid to the recaptors out of the said proceeds.

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Rule 109.

(xii.) *In Prize Salvage.*

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Rule 72.

*Where Value Sworn or Agreed.*

(*Heading as in Form (i.)*)

The Judge, having heard, &c. (*follow last preceding decree down to "on payment of" and proceed*) the sum of £ \_\_\_\_\_, being one-eighth part (*or such other part as the Judge may determine*) of the value of the said ship, proved by the owner and accepted by the recaptors, and approved by the Court (*or as agreed between the owner and the recaptors and approved by the Court*).

The Judge further decreed that the costs of the recaptors of and incidental to this cause should be paid by the claimant. He further decreed that in default of payment by the claimant of the said sum of £ \_\_\_\_\_, and the said costs within six days, the said ship should be appraised and sold by the marshal, and the proceeds of such sale paid into Court, and that the said sum of £ \_\_\_\_\_, and the said costs, be paid to the re-captors out of the said proceeds.

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Rule 109.

Rule 72.(xiii.) *In Prize Salvage.**Where Ship restored but Cargo condemned.**(Heading as in Form (i).)*

The Judge, having heard the claim, and proofs read, and counsel (*&c. as in Form (xi.)*), rejected the claim of *A.B.*, the claimant of the cargo of the said ship and pronounced the same to have belonged (*&c. as in Form (i.)*), and condemned the same as taken by Her Majesty's ship , commander, and further pronounced that freight and expenses are due to the said ship in respect of the said cargo, and ordered that such freight and expenses should be a charge on the said cargo; admitted the claim of *C.D.*, claimant of the said ship; pronounced the said ship to have belonged, *&c. (as in Form (xi.) down to "on payment of," and proceed)* of one-eighth part (*or as the case may be*) of the value of the said ship and of the said freight (*if the value has to be ascertained, continue as in Form (xi.), and proceed*) and referred the question of freight to the registrar to ascertain the amount thereof.

[*Note.—In cases where a sale of ship or cargo takes place, and the Judge directs the costs and expenses of all parties to be paid out of the value, the foregoing decrees can be adapted by inserting words to the following effect: "On payment of one-eighth part of the value of the said ship, or cargo, after deducting therefrom the costs and expenses of all parties."*]

Rule 72.(xiv.) *In Prize Salvage.**Where Ship is brought in and released on Bail.**(Heading as in Form (i).)*

The Judge, having heard the claim, and proofs read, and counsel (*or the solicitors*) on both sides, and, having been assisted by (*here state the names and descriptions of assessors, if any*) pronounced due and awarded to , the recaptors, the sum of £ , being one-eighth part (*or such other part as the Judge may determine*) of the appraised value of the said ship (*or of the estimated value of the said ship as agreed on between the claimant and owner and the recaptors, and approved, by the Court*) and further decreed that the costs of the captors of and incidental to this cause should be paid by the claimant, and condemned the claimant and his bail in the said sum of £ , and the said costs.

Rule 72.(xv.) *In Prize Salvage.**Where the Ship has been allowed to prosecute her Voyage.**(Heading as in Form (i).)*

The Judge, having heard the affidavits (*or the pleadings and evidence*) read, and counsel (*or the solicitors*) on both sides, and having been assisted by (*here state the names and*

*descriptions of assessors, if any*), pronounced due and awarded to \_\_\_\_\_, the recaptors, the sum of £ \_\_\_\_\_, being one-eighth part (or such other part as the Judge may determine) of the value of the said ship proved by the owners and intervener, and accepted by the recaptors, and approved by the Court (or of the estimated value of the said ship as agreed on between the owner and intervener and the recaptors, and approved by the Court, or as ascertained by appraisement of the marshal as the case may be) and further decreed that the costs of and incidental to this cause should be paid by the owner and intervener, and condemned the said ship (and cargo) in the said sum of £ \_\_\_\_\_, and the said costs; ordered and directed the said ship to be appraised (if not already appraised) and sold by the marshal, and the said sum of £ \_\_\_\_\_ and costs to be paid to the recaptors out of the proceeds of such sale; but ordered and directed that if the said owner and intervener should pay the said sum of £ \_\_\_\_\_ and costs within \_\_\_\_\_ days from the date hereof, the said ship (and cargo) should be released to the said owner and intervener (or if the ship has not been arrested, condemned the said owner and intervener in the said sum of £ \_\_\_\_\_, and the said costs, and ordered and directed a monition to issue against him to pay the same, or ordered and directed a warrant to issue for the arrest of the said ship and cargo).

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Rule 109.

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(xvi.) *In Joint Capture.*

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Rule 80.

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*Pronouncing on Condemnation for or against Title to Share.*

*(Heading as in Form (i).)*

The Judge, having heard the claim, and the proofs read, and counsel (or the solicitors) for the claimants *A.B., &c.*, and for the captors *C.D., &c.*, and for the alleged joint captors *E.F., &c.*, and having been assisted by (*here state names and descriptions of assessors, if any*) rejected the said claim; pronounced the said ship \_\_\_\_\_ to have belonged at the time of capture and seizure thereof to enemies of the Crown of Great Britain, and, as such or otherwise, subject and liable to confiscation; pronounced for (or against) the title of the said *E.F., &c.*, to share as joint captors of the said ship, and condemned the said ship (as also the freight due for the transportation of the cargo lately laden therein, *if any*) as good and lawful prize, and as taken by Her Majesty's ship \_\_\_\_\_ (*name of ship of original captors, and if the title of the joint captors is pronounced for, add, jointly with Her Majesty's ship \_\_\_\_\_ (name of ship of joint captors)*), (and further decreed that the costs of the said *E.F., &c.* (or the said *C.D., &c.*) of and occasioned by the intervention of the said *E.F., &c.*, be paid by the said *C.D., &c.*, or *E.F., &c.*).

The Judge further ordered the said ship \_\_\_\_\_ to be appraised and sold by the marshal.

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**Rule 80.**

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**(xvii.) In Joint Capture.***On Condemnation, reserving Question, by whom taken.**(Heading as in Form (i).)*

*(Proceed as in last preceding Form down to the words "liable to confiscation," and continue)* and condemned the said ship (as also the freight due for the transportation of the cargo lately laden therein, *if any*) as good and lawful prize, but reserved the question by whom taken. The Judge further ordered the said ship to be appraised and sold by the marshal.

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**Rule 81.**

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**(xviii.) In Joint Capture.***Subsequent to Condemnation.**Pronouncing for or against Title to Share.**(Heading as in Form (i).)*

The Judge, having heard the claim and proofs read, and counsel (or the solicitor) on both sides, pronounced against (or for) the title of *E.F., &c.*, to share as joint captors of the said ship, and condemned the said ship (as also the freight due for the transportation of the cargo lately laden therein, *if any*) as taken by Her Majesty's ship, commander (or as taken by Her Majesty's ship, commander, together with Her Majesty's ship, commander); and he condemned *E.F., &c.* (or *C.D., &c.*) in the costs of of and occasioned by the intervention of the said *E.F., &c.*

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**Rule 81.**

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**(xix.) In Joint Capture.***Before or subsequent to Condemnation.**Admitting Petition to Proof, or Dismissing Petition.**(Heading as in Form (i).)*

The Judge, having read the petition of *A.B.*, and having heard counsel (or the solicitors) for the petitioner and for the respondent, admitted the said petition to proof (or dismissed the said petition, and condemned the said *A.B.* in the costs of the respondent of and occasioned by the intervention).

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**Rule 82.**

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**(xx.) In Joint Recapture.***Pronouncing for Joint Title or Interest.**(Heading as in Form (i).)*

The Judge, having heard the claim, and proofs read, and counsel (or the solicitors) for *A.B., &c.*, the claimants, *C.D., &c.*, the

recaptors, and *E.F., &c.*, the alleged joint recaptors, and having been assisted by (*here state the names and descriptions of assessors, if any*), admitted the claim of *A.B., &c.* (*proceed as in Form (xi.) to the words*) of the value of the said ship (*or the cargo of the said ship*), and pronounced the said *E.F., &c.*, to be joint recaptors of the said ship (*or of the cargo of the said ship*), and entitled to share in the said part.

The Judge further decreed that the costs of the recaptors of and incidental to this cause should be paid by the claimants, and that the costs of *E.F., &c.*, the said joint recaptors, should be paid by (*or such order as to costs as the Judge may make*).

The Judge further ordered and directed that the said value should be ascertained by appraisement of the said ship (*or the cargo of the said ship*) by the marshal, and decreed that in default of payment by the claimants of the said part of the said value so ascertained as aforesaid, and of the said costs within days after the return of the said appraisement by the marshal, the said ship (*or the cargo of the said ship*) should be sold by the marshal, and the proceeds of such sale paid into Court, and that the said part and the said costs be paid to the recaptors out of the said proceeds, subject to the right of the joint recaptors to share in the said part.

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Rule 109.

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(xxi.) *In Joint Recapture.*

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Rule 82.

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*Reserving Question to whom Due.*

(Heading as in Form (i).)

The Judge, &c. (*proceed as in last preceding Form to words of the value of the said ship, or the cargo of the said ship, and then proceed.*), reserving the question to whom such salvage is due and further reserving all questions of costs.

(xxii.) *Rejecting Claim of alleged Joint Recaptors and pronouncing for sole Title or Interest.*

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Rule 82.

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(Heading as in Form (i).)

(*Proceed as in Form (xi.) until the end of the clause decreeing restitution, and continue*) and rejected the claim of the said *E.F., &c.*, to share as joint recaptors in the said part (and condemned the said *E.F., &c.*, in the costs of the said *C.D., &c.*, occasioned by the said claim of *E.F., &c.*, to share as joint recaptors).

(*The rest of this decree is as in Form (xi.).*)

(xxiii.) *In Prize Bounty.*

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Rule 90.

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(Heading as in Form (i).)

The Judge, having heard the notice of motion and the affidavits of (and the ship papers, *if any*) read, and having heard

counsel (or the solicitors) for the applicants (*name and describe them*), and for (*any other parties appearing*), pronounced and declared that the said applicants being the (or some of the) officers and crew of Her Majesty's ship \_\_\_\_\_, commander, are entitled to prize bounty as being actually present at the taking (or destroying) of the armed ship \_\_\_\_\_, belonging at the time of capture (or destruction) thereof to an enemy of Her Majesty, to wit (the King of \_\_\_\_\_, or, as the case may be), and that at the beginning of the engagement there were on board the said enemy's ship \_\_\_\_\_ persons, and that the amount of prize bounty aforesaid is the sum of \_\_\_\_\_.

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Rule 90.

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(xxiv.) *In Prize Bounty.*

*On Claim to share as Joint Captors before Title declared.*

(*Heading as in Form (i.).*)

The Judge, having heard the notice of motion and the affidavits of \_\_\_\_\_ (and the ship papers, *if any*), and the petition of \_\_\_\_\_, the alleged joint captors, and the answer of the applicants and respondents, and the evidence thereon read and having heard counsel (or the solicitors) for the several parties, pronounced and declared prize bounty to be due in respect of the taking (or destroying) of the armed ship \_\_\_\_\_, belonging at the time of capture (or destruction) thereof to an enemy of Her Majesty, to wit (the King of \_\_\_\_\_, or as the case may be), and that at the beginning of the engagement there were on board the said enemy's ship \_\_\_\_\_ persons, and that the amount of prize bounty aforesaid is the sum of £ \_\_\_\_\_, admitted (or rejected) the claim of the petitioners, and further pronounced and declared that the applicants being the (or some of the) officers and crew of Her Majesty's ship \_\_\_\_\_, commander (*if the claim of the alleged joint captors is admitted*), add together with the petitioners, being the (or some of the) officers and crew of Her Majesty's ship \_\_\_\_\_, commander) are entitled to the said prize bounty as being actually present at the taking (or destroying) of the said armed ship \_\_\_\_\_.

[*Note.*—For decree awarding bounty on condemnation of a ship of war, see Form (iii).]

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Rule 90.

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(xxv.) *In Prize Bounty.*

*On Claim to share after Decree for Prize Bounty made.*

(*Heading as in Form A.*)

The Judge, having heard the petition and answer read, and the evidences thereon, and having heard counsel (or the solicitors) for the several parties admitted (or rejected), the claim of the

petitioners, and pronounced and declared that the petitioners being the (or some of the) officers and crew of Her Majesty's ship , commander, were (or were not) entitled to share with the officers and crew of Her Majesty's ship , commander, in the prize bounty awarded and declared due by the decree of this Court.

(xxvi.) *In Prize Bounty.*

Rule 90.

*Reserving the Question to whom the Bounty is due.*

*(Heading as in Form (i).)*

*(Proceed as in Form (xxiv.) down to the words "the sum of £ " inclusive, or as required, and continue:) but reserved the question as to the persons entitled to such bounty or to share therein.*

(xxvii.) *Order for Sale.*

Rule 109.

*(Heading as in Form (i).)*

The Judge, having heard the affidavit of , filed on behalf of , as to the condition of the said ship (or the cargo of the said ship) read, and having heard counsel (or his solicitor) for the claimant (if any) on behalf of the owner of the said ship (or cargo), and counsel (or the solicitor) for the captors [or having heard counsel (or the solicitor) for the claimant, and counsel (or the solicitor) for the captors on the application of the claimant, on behalf of the owner of the said ship (or the cargo of the said ship) for the sale of the said ship] [or having heard counsel (or the solicitor) for the captors (or recaptors) and counsel (or the solicitor) for the claimant, on behalf of the owner of the said ship (or the cargo of the said ship) , on the application of the captors for the sale of the said ship (or the said cargo) (except in prize salvage, add with the consent of the said claimant)], [or having heard counsel (or the solicitor) for the petitioners, the recaptors, and counsel (or the solicitor) for the respondents, the owners of the said ship (or the cargo of the said ship) , on the application of the petitioners for the sale of the said ship (or the cargo of the said ship)] ordered the said ship (or the said cargo) to be appraised and sold by the marshal, and the proceeds of the sale to be paid into Court.



## No. 116.

Rule 274.

## MINUTES IN CAUSES FOR CONDEMNATION.

(i.) *On Condemnation or Restitution where Claims made.*

No.

The "Benedict," J. Johansen, master.

Our Sovereign Lady the Queen,  
against

The ship or vessel "Benedict," her tackle, apparel and furniture, and the goods, wares, merchandises laden therein, captured by Her Majesty's gunboat "Roarer," Henry Charles Smith, Esquire, commander, and brought to Halifax, and against all persons in general.

18 . 6th June.	J.K., for Her Majesty's Procurator General, instituted a cause for condemnation of the above ship and her cargo, and brought in affidavit of Frederic Williams, Lieutenant R.N., with ship papers marked No. 1 to No. 11 inclusive annexed, and three examinations in preparatory, and the usual monition was issued.
16th June.	Rothery appeared for Heinrich Schmalz, merchant, of Halifax, and gave a claim (in his affidavit annexed) of the said Heinrich Schmalz, as agent on behalf of Fritz Hansen & Co., of Christiania, in the kingdom of Norway, the owners of the said ship or vessel "Benedict," for the said ship or vessel, and the freight due in respect of the cargo now or lately laden therein, and gave the usual bail in his behalf in the sum of £60 as security for costs.
17th June.	Coote appeared for John Jones, merchant, of Halifax, and gave a claim of the said John Jones (with his affidavit annexed) as agent on behalf of Otto Heimdech, of Stromsaal, in the kingdom of Norway, owner of the cargo of the said ship or vessel "Benedict," for the said cargo, and gave the usual bail on his behalf in the sum of £60 as security for costs.
26th June.	The marshal filed the monition with a certificate that the date of service was 7th June.
27th June.	The monition being returned, the Judge on the application of J.K., on behalf of Her Majesty's Procurator-General, and after hearing solicitors for ship and cargo, appointed the 20th July for the first hearing of the cause.
29th June.	The Judge on the motion of counsel on behalf of the said John Jones, claimant of the said cargo, and with the consent of counsel on behalf of Her Majesty, admitted the claim of the said John Jones for the goods specified therein, being the cargo of the said ship, and pronounced the same to have belonged as

claimed, and decreed the same to be restored to the claimant for the use of the owners and proprietors thereof.

The Judge further, on the motion of counsel for the said John Jones to condemn the captors in the costs and damages incurred by the claimants, the owners of cargo, counsel for Her Majesty objecting, and applying for the condemnation of the said claimant in the expenses incurred on behalf of Her Majesty, reserved the question as to costs and damages.

*E.F.,*

Registrar.

The cause now came on for hearing on the claim of Heinrich Schmalz for ship and freight, and

The Judge having heard the claim and proofs read, and counsel on behalf of Her Majesty and counsel in support of the claim, admitted the claim of the said Heinrich Schmalz for the said ship and freight but directed further proof to be given as to the property thereof by the said Heinrich Schmalz on or before the 20th September.

*E.F.,*

Registrar.

The Judge, on the application of Rothery and with the consent of *J.K.*, extended the time for filing the said further proof until 14th October.

Rothery brought in on further proof the affidavit of Heinrich Schmalz, and affidavits of Johann Pedersen and Fritz Hansen with three exhibits annexed, and the further hearing of the cause was fixed for October 20th.

The cause now came on for hearing on further proof, and the Judge, having heard the further proof read and counsel on both sides, took time to deliberate.

*E.F.,*

Registrar.

The Judge, having deliberated, pronounced the said further proof to be sufficient, and pronounced the said ship and freight to have belonged as claimed, and decreed the same to be restored to the said Heinrich Schmalz, the claimant, for the use of the owners and proprietors thereof, on payment of the costs and expenses incurred on behalf of Her Majesty, and further rejected the claim of Coote's parties for costs and damages.

*E.F.,*

Registrar.

Rothery having given his undertaking for the payment of the costs and expenses incurred on behalf of Her Majesty, the Judge, in accordance with his decree of 26th October, ordered a release of the said ship to be issued under the seal of the Court,

18 .

20th July

20th Sept.

14th Oct.

20th Oct.

26th Oct.

4th Nov.

18 .	and also ordered the original ship papers remaining in the registry to be delivered out to the claimant and dispensed with copies thereof being left in the Registry. <div style="text-align: right;"><i>E.F.</i>, Registrar.</div>
5th Nov.	A release was issued to the marshal and the ship restored. ( <i>Or, if the further proof is insufficient, and the ship is condemned :</i> )
26th Oct.	The Judge, having deliberated, pronounced the said further proof to be insufficient, rejected the claim of the said Heinrich Schmalz, and pronounced the said ship to have belonged, at the time of the capture and seizure thereof, to enemies of the Crown of Great Britain, and, as such or otherwise, liable to confiscation, and condemned the same, as also the freight due for the transportation of the cargo lately laden therein, as good and lawful prize, and as taken by Her Majesty's ship "Roarer," Henry Charles Smith, Esq., commander, and further directed the said ship to be appraised and sold by the marshal, and further the said freight to be paid into Court on or before the 1st November. <div style="text-align: right;"><i>E.F.</i>, Registrar.</div>
3rd Jan.	The marshal reported, &c. ( <i>as in Form (ii.)</i> ).

Rule 274.(ii.) *By Default.**As Droit of Admiralty.*

No. .

The "Martha," F. Smid, master.

Our Sovereign Lady the Queen, in Her office of Admiralty,  
against

The ship or vessel "Martha," her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, taken by one of the boats of the Coast Guard station at Halifax, in Nova Scotia, and brought to Halifax, and against all persons in general.

18 .	<i>J.K.</i> , for Her Majesty's Procurator-General, in Her office of Admiralty, instituted a cause for condemnation of the above ship and her cargo, and brought in affidavit of <i>G.D.</i> , Lieutenant R.N., with ship papers marked No. 1 to No. 11 inclusive annexed, and thereupon the usual monition was issued.
5th May.	
8th May.	<i>J.K.</i> , for Her Majesty's Procurator-General, in Her office of Admiralty, produced Wilhelm Blom to be examined in preparatory, who having been sworn by the interpretation of John Dun, who was first sworn that he was well acquainted with the

Dutch and English languages, and also faithfully to interpret, was duly examined on the standing interrogatories.

*J.K.*, for Her Majesty's Procurator-General, in Her office of Admiralty, produced Erik Jahn to be examined in preparatory, who having been duly sworn by the interpretation of Alfred Andersen, who was first sworn that he was well acquainted with the Swedish and English languages, and also faithfully to interpret, was duly examined on the standing interrogatories.

The marshal filed the monition with a certificate that the date of service was the 6th May.

The monition being returned, the Judge, on the application of *J.K.*, appointed the 30th May as the day of the first hearing.

*L.M.* appeared for and exhibited an affidavit of Ferdinand Smid, the master of the said ship or vessel "Martha." The Judge at his petition on motion of counsel and with consent of *J.K.*, directed the private adventure of the said Ferdinand Smid on board the said ship or vessel, consisting of three casks of wine and a bag containing about 80 pounds of coffee and 12 pounds of tea, to be restored to him.

The Judge, having heard the proofs read, the persons cited not appearing, pronounced the said ship or vessel and cargo to have belonged at the time of the capture and seizure thereof to enemies of the Crown of Great Britain, and as such or otherwise subject and liable to confiscation, and condemned the same as good and lawful prize and as droits and perquisites of Her Majesty in Her office of Admiralty taken by one of the boats of the Coast Guard station at Halifax, in Nova Scotia, and further directed the said ship and cargo to be appraised and sold by the marshal.

*E.F.*,  
Registrar.

The marshal reported that the cargo laden on board the said ship or vessel "Martha" was sold on the 11th day of July and that he had on the 14th instant paid into the hands of *M.N.*, the official accountant appointed to receive proceeds of naval prize at Halifax, the sum of 217*l.*, being the amount of the deposit paid by purchasers.

The marshal reported that the said ship or vessel "Martha" was on the 18th day of August sold by public auction at Halifax for the sum of £1,800, and that he had on the 21st instant paid into the hands of *M.N.*, the official accountant appointed to receive proceeds of naval prize at Halifax, the sum of £450, being the amount of the deposit received of the purchaser.

The marshal reported that he had this day paid into the funds of *M.N.*, the official accountant appointed to receive proceeds of naval prize at Halifax, the sum of £1,350, being the amount of the balance of the gross proceeds of sale of the ship or vessel "Martha."

18 .

24th May.

26th May.

30th May.

15th July.

23rd Aug.

4th Sept.

18  
14th Sept.

The marshal reported that he had on the 12th instant paid into the hands of *M.N.*, the official accountant appointed to receive proceeds of naval prize at Halifax, the sum of £213 17s. 9d., being the amount of the balance of the gross proceeds arising from the sale of the cargo of the ship or vessel "*Martha*."

6th Oct.

The marshal returned order of appraisement and sale duly executed, with inventories, appraisements, and account sales of the above-named ship or vessel "*Martha*," and cargo annexed, and brought in his bill of fees and disbursements with vouchers in support thereof, which the registrar taxed at the sum of £250 11s. 7d., viz. :—

		£	s.	d.
Amount of disbursements on ship	-	147	8	9
" " on cargo	-	49	9	4
Amount of marshal's fees on ship	-	46	10	4
" " on cargo	-	7	3	2
		<hr/>		
		£250	11	7

And the Judge thereupon directed the said sum of two hundred and fifty pounds, eleven shillings, and sevenpence (£250 11s. 7d.) to be paid to the marshal out of the proceeds of the said vessel and cargo now remaining in the hands of \_\_\_\_\_ on account of naval prize, present *J.K.*, Her Majesty's Procurator-General not objecting thereto.

[*Note.*—The above minutes are such as may be required in a cause for condemnation, and cover both restitution and condemnation. In some causes many of these minutes would be superfluous. In others additional minutes would be required. In prize salvage and joint capture the minutes should follow as far as possible the wording of the rules and decrees. All minutes of decrees or orders of the Judge should be signed by the Registrar so as to ensure their correctness.]

No. 117.

Rules 279  
and 280.

#### CERTIFICATE OF CONDEMNATION AND SALE OF SHIP.

It is hereby certified that the \_\_\_\_\_ Court of \_\_\_\_\_, being duly authorised to take cognizance of and judicially proceed in matters of prize, did, by its order (or decree) dated the \_\_\_\_\_ day of \_\_\_\_\_, made in a cause instituted on behalf of Her Britannic Majesty for the condemnation of the ship \_\_\_\_\_, \_\_\_\_\_, master, formerly of the port \_\_\_\_\_,

of \_\_\_\_\_ in the kingdom (*or as the case may be*) of \_\_\_\_\_, and claimed in the said cause by or on behalf of \_\_\_\_\_ as the owner thereof, condemn the said ship as good and lawful prize to Her Britannic Majesty and order the said ship to be sold by the marshal of the said Court; and that the said ship was sold accordingly by the said marshal and was by bill of sale (*if the certificate is endorsed thereon add upon which this certificate is endorsed*), dated the \_\_\_\_\_ day of \_\_\_\_\_, sold and assigned to (*insert name of purchaser*).

Issued under the seal of the \_\_\_\_\_ Court of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

(L.S.)

(Signed) E.F.,  
Registrar.

#### No. 118.

##### CERTIFICATE OF SALE OF SHIP.

Rules 279  
and 280.

It is hereby certified that the \_\_\_\_\_ Court of \_\_\_\_\_ being duly authorised to take cognizance of and judicially proceed in matters of prize, did, by its order (*or decree*) dated the \_\_\_\_\_ of \_\_\_\_\_, made in a cause instituted on behalf of Her Britannic Majesty for the condemnation of the ship \_\_\_\_\_, \_\_\_\_\_, master, formerly of the port of \_\_\_\_\_, in the kingdom (*or as the case may be*) of \_\_\_\_\_, and claimed in the said cause by or on behalf of \_\_\_\_\_ as the owner thereof, order, on account of the condition of the said ship [*or on application made on behalf of the said \_\_\_\_\_, the owner of the said ship (or with the consent of the said \_\_\_\_\_, the owner of the said ship)*], the said ship to be sold by the marshal of the said court; and that the said ship was sold accordingly, and was by bill of sale (*if the certificate is endorsed thereon, add upon which this certificate is endorsed*) dated the \_\_\_\_\_ day of \_\_\_\_\_, sold and assigned to (*insert name of purchaser*).

Issued under the seal of the \_\_\_\_\_ Court of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

(L.S.)

(Signed) E.F.,  
Registrar.

#### No. 119.

##### CERTIFICATE OF CONDEMNATION AND SALE OF GOODS OR CARGO.

Rules 279  
and 280.

It is hereby certified that the \_\_\_\_\_ Court of \_\_\_\_\_ being duly authorised to take cognizance of and judicially proceed in matters of prize, did, by its order (*or decree*) dated the \_\_\_\_\_ day of \_\_\_\_\_, made in a cause instituted on behalf of Her Britannic Majesty for the condemnation of (*describe the goods, giving numbers, weight, description, and marks (if*

*any*)) being cargo (or part of the cargo) which was laden on board the ship at the time of the capture and seizure thereof by Her Majesty's ship (or, if the goods did not form part of the cargo of a ship, state where and how taken) and which were claimed in the said cause by or on behalf of as the owner thereof, condemn the said goods as good and lawful prize to Her Britannic Majesty, and order the said goods to be sold by the marshal of the said Court; and that the said goods were sold accordingly by the said marshal, and were under a contract or sold note (if the certificate is endorsed thereon, add upon which this certificate is endorsed) dated the day of , purchased by and sold to (insert name of purchaser).

Issued under the seal of the  
this day of  
(L.S.)

Court of  
(Signed) E.F.,  
Registrar.

#### No. 120.

Rules 279  
and 280.

#### CERTIFICATE OF SALE OF GOODS OR CARGO.

It is hereby certified that the Court of being duly authorised to take cognizance of and judicially proceed in matters of prize, did, by its order (or decree) dated the day of , made in a cause instituted on behalf of Her Britannic Majesty for the condemnation of (describe the goods, giving numbers, weight, description and marks (if any)), being part of the cargo which was laden on board the ship at the time of the capture and seizure thereof by Her Majesty's ship (or, if the goods did not form part of the cargo of a ship, state where and how taken) and which were claimed in the said cause by or on behalf of as the owner thereof, order, on account of the condition of the said goods [or on application made on behalf of the said , the owner of the said goods (or with the consent of the said , the owner of the said goods)], the said goods to be sold by the marshal of the said Court; and that the said goods were sold accordingly by the said marshal, and were under a contract or sold note (if the certificate is endorsed thereon, add upon which this certificate is endorsed) dated the day of , purchased by and sold to (insert name of purchaser).

Issued under the seal of the  
this day of  
(L.S.)

Court of  
(Signed) E.F.,  
Registrar.

## No. 121.

## CERTIFICATE OF RESTITUTION OF SHIP.

Rule 281.

It is hereby certified that the \_\_\_\_\_ Court of \_\_\_\_\_, being duly authorised to take cognizance of and judicially proceed in matters of prize, did, by its decree dated the \_\_\_\_\_ day of \_\_\_\_\_, made in a cause instituted on behalf of Her Britannic Majesty for the condemnation of the ship \_\_\_\_\_, master, of the port of \_\_\_\_\_, in the kingdom (*or as the case may be*) of \_\_\_\_\_, and claimed in the said cause by or on behalf of \_\_\_\_\_ as the owners thereof, admit the said claim on behalf of the said \_\_\_\_\_, pronounce the said ship to have belonged as claimed, and decree the said ship to be released and to be restored to the claimant for the use of the said \_\_\_\_\_, her owners and proprietors.

Issued under the seal of the \_\_\_\_\_ Court of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, (L.S.) (Signed) *E.F.*, Registrar.

## No. 122.

## CERTIFICATE OF RESTITUTION OF GOODS OR CARGO.

Rule 281.

It is hereby certified that the \_\_\_\_\_ Court of \_\_\_\_\_, being duly authorised to take cognizance of and judicially proceed in matters of prize, did, by its decree dated the \_\_\_\_\_ day of \_\_\_\_\_, made in a cause instituted on behalf of Her Britannic Majesty for the condemnation of (*describe the goods, giving numbers, weight, description, and marks (if any)*), being part of the cargo which was laden on board the ship \_\_\_\_\_ at the time of the capture and seizure thereof by Her Majesty's ship \_\_\_\_\_ (*or if the goods did not form part of the cargo of a ship, state where and how taken*) and which were claimed in the said cause by or on behalf of \_\_\_\_\_ as the owners thereof, admit the said claim on behalf of the said \_\_\_\_\_ pronounce the said goods to have belonged as claimed, and decree the said goods to be restored to the claimant for the use of the said \_\_\_\_\_ the owners and proprietors thereof.

Issued under the seal of the \_\_\_\_\_ Court of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, (L.S.) (Signed) *E.F.*, Registrar.



**II.—TABLES OF FEES TO BE TAKEN BY THE JUDGES,  
REGISTRARS, MARSHALS, AND PRACTITIONERS, &c. IN  
PRIZE PROCEEDINGS.**

**I.—BY THE JUDGE.**

	£	s.	d.
On administering any oath or declaration in Court or in Chambers - - - - -	0	5	0
On examination before him of any witness at any time other than the hearing of a cause - - -	1	0	0
On any summons or other application in Chambers - - -	0	10	0
On any motion or other application in Court - - -	1	0	0
On any order for further proof, and on any decree, not being a final decree - - - - -	1	0	0
On a final decree - - - - -	5	0	0
On the assessment of damages, or taking of any account, if assessed or taken by the Judge, according to the case - - - } From	1	0	0
- - - - - } To	5	0	0
On signing or certifying any document - - -	0	10	0
On the issuing of a commission for the examination of witnesses on the standing interrogatories (to be paid by the applicant) for each person appointed thereby - - - - -	2	0	0

**II.—BY THE REGISTRAR.**

**1. For preparing Instruments, &c.**

On the institution of a cause - - - - -	0	10	0
For sealing any monition or other instrument or document required to be sealed - - - - -	0	2	6
For preparing any monition, warrant, release, commission, attachment, or other instrument, required to be sealed, or any certificate under seal, or any bail bond - - - - -	0	10	0
For preparing a receivable order or a receipt for money to be paid out of Court - - - - -	0	5	0
For preparing and sending any notice - - - - -	0	2	6
For preparing any other document, for every folio - - -	0	2	0
<i>Note.</i> —The fees for preparing shall include drawing and fair copying or engrossing.			
For entering or withdrawing a caveat - - - - -	0	5	0
For issuing a summons - - - - -	0	3	0
For issuing a notice of motion - - - - -	0	5	0

2. *For Filing.*

	£	s.	d.
On filing any instrument or other document, except minutes and exhibits - - - - -	0	5	0
On filing exhibits, if not exceeding ten, for each exhibit - - - - -	0	1	0
But not to exceed - - - - -	0	5	0
For each exhibit, if exceeding ten - - - - -	0	0	6

3. *For Evidence, &c.*

(To be taken by the Registrar or his Actuary.)

For administering any oath or declaration, except before the judge - - - - -	0	2	6
For taking down and certifying the evidence of any witness examined before him, or before Commissioners, for every folio - - - - -	0	1	6
For summoning the Commissioners upon the examination of witnesses on the standing interrogatories - - - - -	0	5	0
For examining witnesses on the standing interrogatories before Commissioners, whether by interpretation or not, for each witness - - - - -	0	10	0
For the return of the depositions taken on the standing interrogatories - - - - -	1	0	0
For preparing affidavits as to ship papers, for every folio - - - - -	0	2	0
For sorting and numbering ship papers - - - - -	0	5	0

4. *For the Hearing, &c.*

On setting down a cause for hearing - - - - -	0	10	0
On a final decree - - - - -	1	0	0
On any other decree or order in a cause - - - - -	0	10	0

*Note.*—The above fees shall include the entry of the decree or order in the minute book.

5. *For References.*

For hearing any reference according to the case per day - - - - -	From	1	0	0
- - - - -	To	5	0	0
For preparing the report of a reference - - - - -		1	0	0
For arranging for the attendance of assessors, for each assessor - - - - -		0	5	0

6. *For Taxations.*

For taxing a bill of costs:—				
If the bill does not exceed ten folios - - - - -		0	10	0
For every folio beyond ten - - - - -		0	1	0

7. *For Office Copies, &c.*

	£	s.	d.
For an office copy of any document, for every folio (in addition to the fee for sealing) if in the English language - - - - -	0	1	0
If in a foreign language - - - - -	0	2	0
For a search of the records by any person not a party to the action - - - - -	0	2	6
<i>Note.</i> —No search-fee is to be charged to a party to the cause, or to any seaman.			

## III.—BY THE ASSESSORS.

For each nautical or other assessor, whether at the examination of witnesses or at the hearing of a cause, or upon an assessment of damages, or taking of an account, according to the case per day - - -	From	1	0	0
	To	5	0	0

*Note.*—The above fees shall be paid to the registrar, for the assessors,  
and in the *first instance* by the party instituting the proceeding.

IV.—BY COMMISSIONERS UPON THE EXAMINATION OF WITNESSES  
ON STANDING INTERROGATORIES AND OTHERWISE.

(To be taken by each Commissioner, if more than one, or by the  
Registrar if acting as Commissioner.)

For administering any oath or declaration - - -	0	2	6
On the examination before him of any witness:			
If on the standing interrogatories, for each witness - - - - -	1	0	0
If otherwise than on the standing interrogatories; for taking down and certifying the evidence, for every folio - - - - -	0	1	6

## V.—BY A COMMISSIONER TO TAKE BAIL.

For attending the execution of any bail bond - - -	0	10	0
For taking any affidavit of justification - - -	0	2	6

## VI.—BY THE MARSHAL.

	£	s.	d.
For executing any monition for condemnation, warrant, or attachment (for every person attached) -	1	0	0
For keeping possession of any ship, goods, or ship and goods (exclusive of any payments necessary for the safe custody thereof), for each day -	0	2	6

*Note.*—No fee shall be allowed to the marshal for the custody and possession of property under arrest, if it consists of money in a bank, or of goods stored in a bonded warehouse, or if it is in the custody of a Custom House officer or other authorised person.

On release of any ship, goods, or person from arrest	1	0	0
For attending the unlivery of cargo, for each day -	2	0	0
For executing any commission of appraisement, sale, or appraisement and sale, exclusive of the fees, if any, paid to the appraiser and auctioneer -	1	0	0
For executing and other commission or instrument -	1	0	0
On the gross proceeds of any ship, or goods, &c. sold by order of the Court :—			

If not exceeding 50*l.* - - - - - 0 10 0

For every additional 50*l.* or part thereof - - - 0 10 0

*Note.*—If the marshal, being duly qualified, acts as auctioneer, he shall be allowed a double fee on the gross proceeds.

On a final decree - - - - -	0	10	0
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*Note.*—If the marshal or his officer is required to go any distance in execution of his duties, a reasonable sum may be allowed for travelling, boat-hire, or other necessary expenses in addition to the preceding fees.

## VIII.—BY THE SOLICITOR.

Retaining fee - - - - -	0	10	0
For bespeaking and extracting any monition, warrant or other instrument prepared in the registry (to include attendances) - - - - -	0	10	0
For serving a subpoena or other instrument - - - - -	0	5	0
For taking instructions for a petition or answer - - - - -	1	0	0
For drawing a petition or answer - - - - -	1	0	0
For taking instructions for any further pleading - - - - -	0	5	0
For drawing any further pleading - - - - -	0	10	0
For drawing any other document, for every folio - - - - -	0	1	0
For fair-copying or engrossing any document, for every folio - - - - -	0	0	6
For taking instructions for any affidavit (unless made by the solicitor or his clerk) or for interrogatories or answers, according to the nature or importance thereof -	From	0	5
		To	1
		0	0

	£	s.	d.
For taking instructions for brief	-	-	-
	-	{ From 0 10 0	
		To 3 0 0	
For attending counsel in conference or consultation	-	0 10 0	
For attending to fee counsel	-	0 10 0	
For attendance on any motion before the judge:—			
If with counsel	-	0 10 0	
If without counsel	-	1 0 0	
For attending the examination of witnesses before the trial, for each day:—			
If with counsel	-	1 0 0	
If without counsel	-	2 0 0	
For attendance at the trial, for each day	-	{ From 1 0 0	
		To 3 0 0	
For attendance at the delivery of judgment, if reserved	-	0 10 0	
For attendance at the hearing of a reference to the registrar, for each day:—			
If with counsel	-	{ From 1 0 0	
		To 2 0 0	
If without counsel	-	{ From 1 0 0	
		To 5 0 0	
For any other necessary attendance before the judge, or in the registry, or on the marshal, or on the adverse party or solicitor, in the course of the cause	-	0 5 0	
<i>Note.</i> —When more than one document can conveniently be filed, or one document can be filed and another bespoken, at the same time, the fee for one attendance only shall be allowed.			
For any necessary letter to the adverse party	-	0 3 6	
For serving any notice	-	0 2 6	
For extracting and collating any office copy obtained from the registry, for every folio	-	0 0 4	
For correcting the press, for every folio	-	0 0 2	
For attending the taxation of any bill of costs, not exceeding <i>ten</i> folios	-	0 10 0	
For every folio beyond <i>ten</i>	-	0 0 6	

## VIII.—BY COUNSEL.

Retaining fee - - - - -		1	1	0
For settling any pleading, interrogatories, or answers, &c. - - - - -	From	1	1	0
	To	4	4	0
For any necessary consultation in the course of the cause - - - - -	From	1	1	0
	To	2	2	0
For any motion - - - - -	From	1	1	0
	To	3	3	0

	£	s.	d.
For the examination of witnesses before the trial, for each day - - -	From 2	2	0
	To 5	5	0
For the trial of an uncontested cause - - -	2	2	0
For the trial of a contested cause, for the first day - - - - -	From 5	5	0
	To 21	10	0

(If the cause is of great intricacy or importance, a larger fee may be allowed.)

For each day after the first - - -	From 3	3	0
	To 7	7	0
For attending judgment, if reserved - - -	From 1	1	0
	To 2	2	0
For the hearing of a reference to the registrar, for each day - - - - -	From 2	2	0
	To 5	5	0

*Note.*—Where the same practitioner acts as both counsel and solicitor, he may, for any proceeding in which a counsel's fee might be allowed, charge such fee in lieu of a solicitor's fee.

#### WITNESSES. .

The allowances to witnesses for loss of time and travelling expenses shall be according to the scale for the time being in force in the Supreme or principal Court of the Possession.

Ex. C.M. 9/18/22.







